

July 30, 2002

The Honorable Board of Supervisors
County of Los Angeles
383 Kenneth Hahn Hall of Administration
500 West Temple Street
Los Angeles, CA 90012

Dear Supervisors:

**AWARD OF CONCESSION AGREEMENTS FOR THE OPERATION OF VARIOUS
FOOD SERVICE CONCESSIONS
(FIRST) (4 VOTES)**

IT IS RECOMMENDED THAT YOUR BOARD:

Instruct the Chairman to award concession agreements for the operation of three food service concessions which includes a five-year agreement with P&A Food Systems, Inc. (P&A) for the operation of the cafeteria at the Edmund D. Edelman Children's Court and two, five-year concession agreements with Morrison Management Specialists, Inc. (MMS) for the operation of the cafeterias at LAC+USC General Hospital and the Women's and Children's Hospital.

PURPOSE/JUSTIFICATION OF RECOMMENDED ACTION

The purpose of the recommended action is to award concession agreements to P&A Food Systems, Inc. (P&A) and Morrison Management Specialists, Inc. (MMS) for the operation of two hospital and one courthouse cafeteria. The recommended concession operators were selected following the issuance of a request for proposals by this office. A number of proposals were received and evaluated by two separate selection committees made up of staff from the Department of Health Services (DHS) for the hospital cafeteria operations, and Court Administration for the courthouse operator. Staff from the CAO were on both selection committees and Perspectives, Inc., a food service consultant retained by this office, also participated in selection of the cafeteria vendors.

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P&A is recommended by the selection committee to operate the Edmund D. Edelman Children's Court cafeteria based on its experience and high level of service that it has historically provided to its customers both at the Department of Water and Power and Kenneth Hahn Hall of Administration, among other clients. P&A's proposed rent and capital improvements were also an important factor in the decision making process. The improvements are expected to provide much needed upgrades to the kitchen and dining room areas.

It is also recommended that your Board award two, five-year concession agreements to MMS to operate both the General Hospital and Women's and Children's Hospital cafeterias located on the LAC+USC Medical Center campus. This selection is based on MMS' proven experience and high level of service that it has provided to its customers in similar hospital cafeteria settings including the Martin Luther King, Jr./Drew Medical Center, High Desert Hospital and Harbor-UCLA Medical Center. The proposed rent and capital improvements were also considered and weighed in the final decision of the selection committee.

It was also determined that P&A and MMS will be committed to limiting any significant disruption of service resulting from transition from the old to the new operator.

IMPLEMENTATION OF STRATEGIC PLAN GOALS

The Countywide Strategic Plan directs that we create a positive work environment for County employees (Goal 2, Strategy 2). The granting of concession agreements for the operation of County facilities to provide food services to employees and the general public, supports this strategy.

FISCAL IMPACT/FINANCING

Approval of the proposed concession agreements by your Board are expected to provide approximately \$107,000 in revenue to the County General Fund.

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The following table reflects the amount of capital funding to be provided by the operators for the necessary improvements to be completed at each of the County facilities and the estimated annual revenue to be expected from the various concession agreements.

Estimated Annual Revenue from Concession Agreements

Vendor	Location	Improvements	Rent Factor	Est. Annual Revenue
P&A	Edmund D. Edelman Children's Court	\$50,000	4% of gross sales, excluding sales tax	\$24,900
MMS	LAC+USC General Hospital	\$254,090	4% on sales up to \$157,185 monthly, and 2% of gross monthly sales thereafter, excluding sales tax.	\$75,400
	LAC+USC Women's and Children's Hospital	\$18,450	4% on sales up to \$14,398 monthly, and 2% of gross monthly sales thereafter excluding sales tax.	\$6,900

The financial arrangements between the cafeteria operators and the County were determined to be fair and reasonable by the Selection Committee and Perspectives, Inc., the food services consultant retained by this office to assist with the evaluation of the proposals. Any improvements to the facilities will require the review and approval of the County prior to commencement of any construction or equipment installation activities by the operator.

FACTS AND PROVISIONS/LEGAL REQUIREMENTS

Under the terms of the attached proposed concession agreements, all are subject to cancellation at any time upon 60 days written notice. In the event the County elects to terminate the contracts, the County will reimburse the concessionaires for the residual value of the improvements. The concessionaires currently at the facilities are under month-to-month contracts; notice of termination has been given and they will deliver up possession of their respective premises in August.

The County will incur expenses for utilities and maintenance of all the structures. All of the proposed concessionaires are responsible for maintenance of the equipment. At the termination of each of the proposed agreements, all of the equipment and improvements will revert to the County, at its option, at no additional County cost. Because of the refurbishing of all these facilities, it is expected that the proposed concessionaires will increase sales thereby providing additional revenue to the County.

The granting of concession agreements for the operation of food service facilities at County facilities is authorized by the provisions of Government Code 25536, and is categorically exempt under CEQA and the revised Environmental Document Reporting Procedures and guidelines adopted by your Board on November 17, 1987.

IMPACT ON CURRENT SERVICES (OR PROJECTS)

It is anticipated that P&A and MMS will continue the operation of the facilities during the course of the refurbishing without any disruption of service.

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CONCLUSION

Instruct the Executive Officer, Board of Supervisors to provide a copy of the executed Agreements and a stamped, adopted Board letter to the Chief Administrative Officer, Auditor-Controller, Assessor and County Counsel.

Respectfully submitted,

DAVID E. JANSSEN
Chief Administrative Officer

DEJ:SNY
CB:DB:hd

Attachments (4)

c: County Counsel
Auditor-Controller
Department of Health Services
Superior Court

CONCESSION AGREEMENT
BETWEEN
COUNTY OF LOS ANGELES
AND
MORRISON MANAGEMENT
SPECIALISTS, INC.

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THIS CONCESSION AGREEMENT, made and entered into this _____ day
of _____, 2002

BY AND BETWEEN

COUNTY OF LOS ANGELES, a body corporate
and politic, hereinafter referred to as "County",

AND

**MORRISON MANAGEMENT SPECIALISTS,
INC.**, referred to as "Concessionaire",

WITNESSETH:

WHEREAS, County owns the LAC+USC Medical Center's General Hospital located
at 1200 North State, Los Angeles, CA.

WHEREAS, The Board of Supervisors is authorized by the provisions of
Government Code 25536 to grant concessions therein that are consistent with the
government purposes served thereby; and

WHEREAS, a concession for the sale of food and beverage is consistent with said
purposes;

WHEREAS, Concessionaire is willing to exercise the grant of such a concession in
accordance with the terms and conditions prescribed therefor;

NOW, THEREFORE, in consideration of the mutual promises, covenants and
conditions set forth herein, the parties and each of them do agree as follows:

1. CONCESSION GRANTED

1.01 Concessionaire is hereby authorized to sell food, beverages and sundry items
within the confines of the LAC+USC Medical Center Cafeteria.

1.02 Concessionaire understands and agrees that the concession is by license
and not lease; confers only permission to occupy and use the premises described for
concession purposes in accordance with the terms and conditions hereinafter specified
without granting or reserving to Concessionaire any interest or estate therein; the
expenditure of capital and/or labor in the course of use and occupancy thereunder shall not
confer any interest or estate in the premises by virtue of said use, occupancy and/or
expenditure of money thereon; and it is the intention of the parties to limit the right of user
granted herein to a personal, revocable and unassignable privilege of use in the premises
for the concession granted herein.

2. CONCESSION PREMISES

2.01 The concession shall be conducted from the approximately 8,700 square feet existing cafeteria located on the ground floor of the LAC+USC Medical Center to be refurbished pursuant to Paragraph 10 (Required Construction).

2.02 The concession premises shall be used only and exclusively for concession purposes, and such other purposes as are related thereto provided express approval therefor is granted by the Chief Administrative Officer and for no other purposes whatsoever.

2.03 Concessionaire acknowledges personal inspection of the concession premises and the surrounding area and evaluation of the extent to which the physical condition thereof will affect the concession. Concessionaire accepts the concession premises in their present physical condition, and agrees to make no demands upon County for any improvements or alteration thereof.

2.04 Concessionaire may make or construct or cause to be made or constructed additions, alterations, repairs or changes in the concession premises in addition to those required under Section 10, at Concessionaire's expense, provided written approval thereof is first obtained from the Administrative Office; permits are obtained therefor as hereafter required, and there is compliance with such terms and conditions relating thereto as may be imposed thereon by the Chief Administrative Office. 2.04

2.05 Concessionaire hereby acknowledges the title of County or any other public agencies having jurisdiction thereover, in and to the concession premises and the improvements located thereon, and covenants and agrees never to assail, contest or resist said title.

2.06 Ownership of all improvements constructed by Concessionaire upon the concession premises and all equipment, alterations, additions or betterments thereto shall remain in Concessionaire until termination of this agreement. Upon termination, whether by expiration of the term, cancellation for breach as determined by County or forfeiture, ownership thereto shall vest in County, without compensation being paid therefor, and such improvements and all installed equipment stated in the attached "Recommended Equipment Alterations, Improvement and Repairs Estimated Costs" attached hereto and incorporated herein and marked as Exhibit "A", shall be surrendered with the concession premises, unless demand for their removal shall be given by the Chief Administrative Office at least ninety (90) days prior to the date of termination. Should Concessionaire fail to remove said improvements, and/or equipment, the same may be sold, removed or demolished, and Concessionaire shall reimburse County for any cost or expense in connection therewith in excess of any consideration received by County as a result of said sale, removal or demolition.

3. TERM

3.01 The term of the concession shall be for a period of five years commencing August 24, 2002 upon approval of the contract by the County and terminating five years thereafter, unless sooner terminated or modified as herein provided.

3.02 Notwithstanding the provision of paragraph 19, this concession agreement may be terminated at the County's convenience and without any reason upon serving a 60 day written notice to the Concessionaire.

3.03 In the event Concessionaire holds over beyond the term herein provided with the consent, express or implied of County, such holding shall be from month to month only, subject to the conditions of this agreement, shall not be a renewal, and shall be at the monthly compensation provided herein.

4. RENT

4.01 Concessionaire shall pay rent to the County in the amount of 4% of monthly gross receipts, excluding sales tax, on all sales totaling up to \$157,185 monthly and 2% of all gross receipts, less applicable sales tax, over and above that amount monthly.

4.02 Payment shall be made by check or draft issued and payable to the Los Angeles County Auditor-Controller on or before the 5th day of the calendar month of the term provided herein. Payment shall be mailed or otherwise delivered to the Franchise/Concession Section, Auditor Controller, County of Los Angeles, 500 West Temple St., Room 514, Los Angeles, California 90012, with a copy of such check to be mailed to Chief Administrative Office, Real Estate Division, Property Management Section, 222 South Hill Street, 3rd Floor, Los Angeles, California 90012.

4.03 In the event payment is not made on or before said date, a penalty of one-hundred dollars (\$100.00) plus interest of one percent per month shall be added to the unpaid amount.

4.04 The late payment charge may be waived whenever the Chief Administrative Officer, upon appeal of the Concessionaire, finds late payment excusable by reason of extenuating circumstances.

4.05 Any late payment charge shall be due and payable within the next rental payment period. County shall not be obligated at any time to notify Concessionaire of late payment charges or the accumulation thereof.

5. ACCOUNTING RECORDS

5.01 Concessionaire shall be required to maintain a method of accounting which shall, to the satisfaction of the Auditor-Controller, correctly and accurately reflect the gross receipts and disbursements of Concessionaire in connection with the concession. The method of accounting, including bank accounts established for the concession, shall be separate from the accounting system used for any other business operated by Concessionaire or for recording Concessionaire's personal financial affairs. Such method shall include the keeping of the following documents:

- a. Regular books of accounting such as general ledgers.
- b. Journals, including any supporting and underlying documents such as vouchers, checks, tickets, bank statements, etc.
- c. State and Federal income tax returns and sales tax returns and checks and other documents providing payment of sum shown which shall be kept in confidence by the County.
- d. Cash register tapes (daily tapes may be separated) but shall be retained so that from day to day the sales can be identified.
- e. Any other accounting records that the Auditor-Controller deems necessary for proper reporting of receipts.

5.02 All sales shall be recorded by means of cash registers which publicly display the amount of each sale and automatically issue a customer's receipt or certify the amount recorded in a sales slip. Said cash registers shall, in all cases, have locked-in sales totals and transaction counters which are constantly accumulating and which cannot, in either case, be reset, and in addition thereto, a tape located within the register on which transaction number and sales details are imprinted. Beginning and ending cash registers readings shall be made a matter of daily record. If requested by the County, the County shall be furnished and retain all the reset keys for the cash registers.

5.03 All documents, books and accounting records shall be open for inspection and reinspection at any reasonable time during the term of this agreement. In addition, the Auditor-Controller may from time to time conduct an audit and re-audit of the books and business conducted by Concessionaire and observe the operation of the business so that accuracy of the above records can be confirmed. If the report of gross sales made by Concessionaire to the Auditor-Controller should be found to be less than the amount of gross sales disclosed by such audit and observation, Concessionaire shall pay the delinquent amount within 30 days of billing therefor. If the additional gross receipts exceeds 2 percent and there is no reasonable basis for the failure to report and pay thereon, Concessionaire shall also pay the cost of the audit and late charges heretofore provided for delinquent payments.

All information obtained in connection with the Auditor-Controller's inspection of records or audit shall be treated as confidential information and except from public disclosure thereof. County shall not be liable or responsible for the disclosure of any such records including those marked trade secret, confidential or proprietary, if such disclosure is deemed to be required by law or an order of Court.

5.04 Concessionaire shall furnish the Auditor-Controller with a monthly gross receipts report showing the amount payable therefrom to the County. A copy of the monthly sales report shall be mailed to Chief Administrative Office, Real Estate Division, 222 South Hill Street, 3rd Floor, Los Angeles, California 90012, Attention: Property Management Section. In addition thereto, Concessionaire shall furnish the Auditor-Controller with an annual Profit and Loss statement and a balance sheet prepared by a person on a form acceptable to said officer. The annual financial statements shall be submitted within 60 days of the close of an agreement year. Said closing date shall be determined by reference to the date for commencement of the term herein provided.

5.05 All such accounting records, including, but not limited to, all financial records, journals, vouchers, checks, State and Federal income tax returns and sales tax returns, cash register tapes, proprietary data and information, shall be kept and maintained by Concessionaire and shall be made available to County during the term of this agreement and for a period of four years thereafter unless County's written permission is given to dispose of any such material prior to such time. All such material shall be maintained by Concessionaire at a location in Los Angeles County, provided that if any such material is located outside the Los Angeles County, then, at County's option, Concessionaire shall pay County for travel, per diem, and other costs incurred by County to examine, audit, excerpt, copy or transcribe such material at such other location.

6. OPERATING RESPONSIBILITIES

6.01 Compliance with Law

Concessionaire shall conform to and abide by all municipal and County ordinances, State and Federal laws and regulations, insofar as the same or any of them are applicable; and where permits or licenses are required for the concession or construction authorized herein, the same must be first obtained from the regulatory agency having jurisdiction thereover.

6.02 Compliance with Rules and Regulations

Concessionaire shall conform to and abide by all rules and regulations of the Board of Supervisors, Chief Administrative Officer, County Departments and other governmental regulatory agencies insofar as the same or any of them are applicable.

6.03 Disorderly Persons

Concessionaire agrees not to allow any loud, boisterous or disorderly persons to loiter about the concession premises.

6.04 **Illegal Activity**

Concessionaire shall not permit any illegal activities to be conducted upon the concession premises.

6.05 **Signs**

Concessionaire shall not post signs or advertising matter upon the concession premises or improvements thereon, unless prior approval therefor is first obtained from the Chief Administrative Officer.

6.06 **Noninterference**

Concessionaire shall not interfere with the public use of the County building where the cafeteria is located.

6.07 **Concession Staff**

6.07.01 Concessionaire shall maintain an adequate and proper staff and shall make a reasonable effort to retain present employees. The Chief Administrative Officer may, at any time, give Concessionaire written notice to the fact that the conduct or actions of a designated employee of Concessionaire is, in the reasonable belief of the Chief Administrative Officer, detrimental to the interests of the public patronizing the concession premises. Concessionaire will meet with representatives of the Chief Administrative Officer to consider the appropriate course of action with respect to such matter and Concessionaire shall take reasonable measures under the circumstances to assure the Chief Administrative Officer that the conduct and activities of Concessionaire's employee will not be detrimental to the interest of the public patronizing the concession premises.

6.07.02 Concessionaire shall designate one member of the staff as the Concession Manager with whom County may deal on a daily basis. Any other persons selected by Concessionaire as Concession Manager shall be skilled in the management of business similar to the concessionaire and shall be subject to approval by the Chief Administrative Officer. The Concession manager shall be fully acquainted with the concession, familiar with the terms and conditions prescribed therefore by this agreement; and authorized to act in the day-to-day operation thereof. Concessionaire and/or Manager shall attend any required meetings.

6.07.03 Concessionaire warrants that it fully complies with all statutes, requirements and laws regarding the employment eligibility of aliens and other, and that its employees performing services hereunder meet the citizenship or alien status requirements contained in federal and state statutes and regulations including, but not limited to, the Immigration Reform and Control Act of 1986 (P.L. 99-603). Concessionaire shall obtain from all covered employees eligibility status required by federal statutes and regulations as they currently exist and as they may be hereafter amended. Concessionaire shall retain such documentation for all covered employees for the period prescribed by law. Concessionaire shall indemnify, defend, and hold harmless the County, its officers and employees from employer sanctions and any other liability which may be assessed against Concessionaire or the County, or both in connection with any alleged violation of federal statutes or regulations pertaining to the eligibility for employment of persons performing services under this agreement.

6.07.04 All persons employed by Concessionaire under this agreement shall be competent, trustworthy and well qualified for their work. Concessionaire shall submit to the Chief Administrative Officer a roster of employees who are required to enter County facilities. The roster shall be kept current. Concessionaire and his/her employees will be required to provide picture identification for entry into the facility and to comply with all applicable regulations of the County. Concessionaire shall provide uniforms for its staff at its own expense and require the staff to wear the uniforms while working at the premises.

6.07.05 Concessionaire shall file with the Chief Administrative Officer a certificate for each member of the concession staff showing that within the last two years such person has been examined and has been found to be free of communicable tuberculosis. Certificate means a document signed by the examining physician and surgeon who is licensed under Chapter 5 (commencing with Section 2000), Division 2 of the State Business and Professions Code or a notice from a public health agency or unit of the Tuberculosis Association which indicated freedoms from active tuberculosis. In addition, Concessionaire shall provide annual medical certifications for each staff member at its expense.

6.08 Days and Hours of Operation

Concessionaire shall keep the concession open every day of the week. The minimum hours of operation shall be from 5:50 AM to 4:00 AM Monday through Friday and 6:00 AM to 7:00 PM on Saturdays, Sundays and holidays. In addition, thereto, Concessionaire shall keep the concession open for service to employees at such other times as may be requested by the Chief Administrative Officer. In the event of emergencies, Concessionaire shall be required to keep the concession open and provide food service.

6.09. Menu Price Schedules

Concessionaire shall at all times maintain a complete list or schedule of the prices charged for all goods or services, or combinations thereof, supplied to the public on or from the concession premises. Said prices shall be fair and reasonable based upon the following considerations: that the concession is intended to serve the needs of the public for the goods and/or services supplied at a fair and reasonable cost; comparability with prices charged for similar goods and/or services supplied in the Los Angeles Metropolitan Area; and reasonableness of profit margin in view of the cost of providing same in compliance with the obligations assumed in this agreement. In the event the Chief Administrative Office notifies Concessionaire that prices being charged are not fair and reasonable, Concessionaire shall have the right to confer with the Chief Administrative Office and justify said prices. Following reasonable conference and consultation thereon, Concessionaire shall make such price adjustments as may be ordered by the Chief Administrative Office. Concessionaire may appeal the determination of the Chief Administrative Office to the Board of Supervisors, whose decision thereon shall be final and conclusive. However, Concessionaire shall comply with the ordered price adjustment pending the appeal and final ruling thereon by the Board of Supervisors.

6.10 Menu

Concessionaire's proposed menu attached hereto and marked as Exhibit "B" is to be prepared and submitted for the County's final approval and shall include prices, a description of each item, the weight of each portion and the government grades for its component items. This is also required of any future proposed menus or changes. No menu shall misrepresent quality, grade, or weight of any item. If Concessionaire is unable to determine the weight of a given item, it may indicate that its weight will not be less than an amount which Concessionaire shall state. For a product which changes weight during cooking, Concessionaire shall indicate whether the weight indicated is that product's uncooked weight. If Concessionaire purchases various government grades of a given item, it shall state the lowest grade which it purchases.

6.11 Publicly Displayed Menu

Prices for each item sold in the facility shall be conspicuously displayed to the satisfaction of the Chief Administrative Officer as to information given, design, type, size, style, color, and all other specifics. Said prices shall not exceed the approved prices for said items. If, in addition to any publicly displayed menu, Concessionaire provides individual menus for customers, or places price markers on item displays, said prices shall not exceed the approved prices for said items.

6.12 Amendments May Be Required

The Chief Administrative Officer may re-evaluate the selection of menu and other items during the term. The Chief Administrative Officer's determination that the selection offered is inadequate, or that any price is excessive, or that the quality or quantity of any item is deficient, shall be conclusive. Concessionaire may meet and confer with the Chief Administrative Officer regarding such matters.

6.13 Removal of Objectionable Goods and Services

Concessionaire shall immediately remove or withdraw from sale any goods or services which may be found objectionable to employees, public welfare or by the Chief Administrative Officer, following receipt of written notification therefore.

6.14 Sanitation

No offensive matter or refuse or substance containing an unnecessary, unreasonable or unlawful fire hazard or material detrimental to the public health, shall be permitted or remain on the concession premises, and Concessionaire shall prevent any accumulation thereof from occurring. Concessionaire shall, at all times keep the kitchen, dish room, serving line, equipment and materials located thereon sanitary and free from rubbish, refuse, food scraps, garbage, dust, dirt, flies and other insects, rodents and vermin. All apparatus, appliances, utensils, devices, equipment and piping used by Concessionaire shall be constructed so as to facilitate the cleaning and inspection thereof and shall be thoroughly and properly cleaned after each period of use with hot water and suitable soap, detergents and sterilizing agents and shall be rinsed by flushing with hot water. All trays, dishes, china, crockery, glassware, cutlery and other equipment of such type shall be cleaned by Concessionaire immediately after using the same and shall be kept clean until reused. Floors shall be cleaned by Concessionaire of all food and beverage spilled thereon. Concessionaire shall provide and pay for regular fumigation service. In addition, Concessionaire shall at all times maintain an "A" rating as determined by the Los Angeles County Health Department.

The foregoing notwithstanding, County shall assist in maintaining the sanitation required herein by providing for the collection of all refuse and payment of all charges for the removal thereon.

6.15 Security Devices

Concessionaire may provide any legal devices, installations, or equipment designed for the purpose of protecting the concession premises from theft, burglary or vandalism, provided written approval for installation is first obtained from the Chief Administrative Officer. All purchases and installations thereof shall be at Concessionaire's expense.

6.16 Safety

Concessionaire shall immediately correct any unsafe condition at the concession premises, as well as any unsafe practices occurring thereon. Concessionaire shall obtain emergency medical care for any member of the public who is in need thereof, because of illness or injury occurring on the concession premises. Concessionaire shall cooperate fully with County in the investigation of any accidental injury or death occurring on the concession premises, including a prompt report thereof to the Chief Administrative Officer.

6.17 Trade Fixtures

Concessionaire shall provide all equipment listed in the Section 10 Exhibits, cash registers, and anything else necessary for the satisfactory operation of the concession, and shall repair, maintain and replace said equipment, as is reasonably necessary. Any additional supplies needed shall be provided by Concessionaire including expendable items such as flatware, dishes, trays, glasses, cooking utensils, employee uniforms, condiment dispensers, and decorative items required for the proper operation of the concession as determined by the Chief Administrative Office. Ownership of all improvements and equipment, except expendable items, shall vest in County at the end of the term of the contract.

6.18 Habitation

The concession premises shall not be used for human habitation.

6.19 Prevailing Wages

To the extent that this concession involves the full-time employment by Concessionaire of dishwashers, cooks, waiters, waitresses, busboys, servers and cashiers necessary for the proper performances by Concessionaire of the obligations imposed by this concession agreement, Concessionaire agrees that the per diem wages paid to paid personnel shall not be less than the prevailing rate of per diem wages in the locality in which this concession is located for each classification or type of employee provided at least 50 percent of the employees in the classification in the locality are covered by a collective bargaining agreements. In the event no collective bargaining agreements exist in the locality in which this concession is located, the prevailing wage shall be determined by a survey of job positions comparable to those in the employ of the Concessionaire, which survey shall be undertaken by the Chief Administrative Officer or his designee. As used in this paragraph, the term locality shall be deemed to mean the greater Los Angeles area. As used in this paragraph, the term per diem wages shall be deemed to include employer payments of health and welfare, pension, vacation, paid holidays and similar purposes. Concessionaire shall keep an accurate record showing the per diem wage to each classification of employee personnel on the premises and said records shall be open to inspection at all reasonable hours by agents of the County. This requirement is applicable only to Concessionaire exempted from the provisions of the Living Wage Ordinance.

6.20 Paid Time Off Benefits

Concessionaire shall provide a minimum of two weeks paid time off benefits for each full-time employee. Full-time employees are those who work a minimum of 35 hours per week for 50 weeks.

6.21 Merchandise

Concessionaire shall provide and maintain the necessary inventory of concession merchandise required to meet the needs of the public therefore. All food and beverages sold or kept for sale by Concessionaire shall be first class in quality, wholesome and pure, and shall conform to federal, state and County food laws, ordinances and regulations in all respects. No adulterated, misbranded or impure articles shall be sold or kept for sale by Concessionaire, and all merchandise kept on hand by Concessionaire shall be stored and handled with due regard for sanitation. In the event food is below first class, the Chief Administrative Office shall have the right to order the improvement of the quality of any food kept or offered for sale.

6.22 Additional Concessionaire Responsibilities

The Concessionaire further agrees to the following:

1. Provide a premium coffee choice(s).
2. Healthy food choice selections daily.
3. Grab and go food selections.
4. Scattered food service stations to improve traffic flow.
5. Professional signage and Spice of Life Theme.
6. Provide a suggestion box.
7. Post menu on County web site.
8. Post the weekly menu and distribute copies to key staff as directed.
9. Provide a Hispanic and Asian food choice daily.
10. Provide theme meals on holidays and occasional promotions.
11. Provide a minimum 5 week menu cycle.
12. Provide discounted meal choices for employees.
13. Provide cabinet covered trash receptacles.
14. Provide additional seating capacity.

7. MAINTENANCE AND REPAIRS

7.01 Concessionaire shall be responsible for maintaining the concession premises in good and substantial repair and condition, and in compliance therewith shall perform all repairs to or replacement of all improvements and equipment including those appliances, furniture, fixtures and equipment owned by Concessionaire. In addition to this general requirement, Concessionaire shall perform any and all repairs required for the maintenance thereof in compliance with all laws applicable thereto, replace broken window glass, repair/replace exposed plumbing and electrical and lighting fixtures, clearing of clogged waste lines and replacement of broken or damaged doors. The County is to maintain and

repair central hot water, heating and air conditioning systems, unexposed electrical and plumbing and replace interior light bulbs and fluorescent tubes. If the drains require cleaning more than once per month and it is determined by the County that is through no fault of the Concessionaire, the County will be responsible for the additional cleaning. The foregoing notwithstanding, Concessionaire shall be responsible for repair and/or replacement of all improvements and equipment thereon damaged and/or destroyed by the negligent and/or willful acts and omissions of the employees, agents, suppliers and/or contractors of Concessionaire. All maintenance shall be commenced within thirty (30) days of the need therefor and diligently prosecuted to completion of same, except where the state of disrepair is such that an emergency or hazard is created thereby in which event there shall be an immediate correction thereof. Either party may cure the default of the other party hereto with respect to the maintenance obligations assumed herein, and upon performance thereof shall acquire a right of reimbursement therefrom for the actual costs of same, including, but not limited to, the cost of labor, materials and equipment furnished in the correction thereof, provided there is prior mutual agreement between the Chief Administrative Office and Concessionaire upon the nature and scope of the work to be performed and the costs to be incurred therein.

8. DEMAND FOR REIMBURSEMENT

8.01 Any demand of County under section 7 for reimbursement hereunder shall be satisfied by Concessionaire through payment of the sums deposited with County as security for faithful performance, or pro-rated monthly installment payments over the remaining term of the agreement, commencing with the month next succeeding the date of completion of the maintenance performed. Any demand of Concessionaire for reimbursement hereunder shall be satisfied by County through a credit against the monthly rental obligation of Concessionaire, commencing with the month next succeeding the date of completion of the maintenance performed and for each and every other month of the remaining term of the agreement, until a total credit has been provided up to the actual costs of cure or the rental reserved over said remaining term. County and Concessionaire waive all rights to payment on their respective rights to reimbursement for the actual costs of cure of the default of the other with respect to the maintenance obligations assumed herein, except in the manner and amounts heretofore provided.

9. UTILITIES

9.01 The County shall provide and pay for all necessary utilities excluding telephones. The telephone number shall be placed in the name of the Concessionaire and shall not be transferable to any other location. Concessionaire waives any and all claims against County for compensation for loss of damage caused by a defect, deficiency or impairment of any utility system, water supply system, drainage system, waste system, heating or gas system, electrical apparatus or wires serving the concession premises.

10. REQUIRED CONSTRUCTION

10.01 The Concessionaire shall improve the area and furnish equipment in an amount not less than \$254,090 as per the "Recommended Equipment Alterations, Improvement and Repairs Estimated Costs" attached hereto and incorporated herein and marked as Exhibit : "A". Title to the equipment, furnishings and remodeled areas and items will vest with the County at the termination, surrender or vacation of the concession granted, unless the County makes demand for its removal 90 days thereto. Concessionaire shall refurbish the cafeteria upon the concession premises in accordance with the plan that is to be submitted and approved by the Chief Administrative Office. Prior to commencement of construction, Concessionaire shall obtain approval of all plans and specifications for any improvements to be constructed upon the demised premises from the County Building and Safety, Fire Department, Chief Administrative Officer, and other regulatory agencies. No modification of said plans, specifications or improvements shall be made by Concessionaire without approval thereof by these agencies. Concessionaire further agrees that final work is subject to the approval of the Chief Administrative Officer in addition to the other regulatory agencies having proper jurisdiction.

10.02 Accordingly, Concessionaire shall within 21 days of the commencement of the term provided herein, cause preliminary plans and specifications to be prepared and submitted for approval of the Chief Administration Officer; and within 14 days following the approval thereof, cause final plans and specifications and full cost estimates to be prepared and submitted for approval by said officer. Upon approval thereof said final plans and specifications shall be incorporated herein by this reference.

10.03 Concessionaire shall, within 7 days after approval of the final plans and specifications as provided herein, and upon County's posting of the construction site with a notice of non-responsibility prior to commencement of construction of the above-described improvements, diligently prosecute and complete the same.

10.04 No modification of said final plans and specifications or of said improvements shall be made by Concessionaire without approval therefore by the Chief Administrative Officer.

10.05 Concessionaire agrees that County may have on the site at any time during the construction period an inspector who shall have the right of access to the concession premises and the construction work. Concessionaire shall, at the commencement of the construction work, notify the Chief Administrative Officer in writing of the identity, place of business and telephone number of Concessionaire's on-the-job representative. Said representative shall be Concessionaire's primary consultant for the inspector of the County.

10.06 The parties agree that any delay in the construction due to fire, earthquake, war, labor dispute or other events beyond the control of Concessionaire shall extend the time in which said construction must be completed by the length of time of such delay.

10.07 Concessionaire shall construct, perform complete and maintain all construction covered by this agreement in a good and workmanlike manner and with high quality material, and shall furnish all tools, equipment, labor and material necessary to perform and complete the same, and hereby expressly warrants that all said materials and workmanship will be free from defects. Initial installations with respect to electrical, gas and plumbing will be approved by appropriate County Building Inspector and provided at Concessionaire's expense.

10.08 It is understood that the construction required herein may, at the discretion of Concessionaire, be constructed in phases, each phase being separated from the other by a period of time to be determine by Concessionaire. However, the nature of the construction to be performed in each phase and the time interval between phases shall be subject to approval by the Chief Administrative Officer. In no event shall the phasing of the construction required extend the completion beyond the date heretofore provided. Should the required construction be phased as herein provided, diligent prosecution thereof shall require commencement of each phase on or before the date selected for commencement thereof. However, all work shall be completed within 120 days of the beginning date of this contract provided County has provided necessary approvals.

10.09 Concessionaire shall coordinate his work schedule with other contractors to avoid disruption and delay in completion of the project. In addition, Concession shall require his architect to oversee the construction to ensure that it is in accordance with approved construction plans for the food service facility.

11. OWNERSHIP OF IMPROVEMENTS

11.01 Concessionaire shall have the rights to the ownership of the improvements installed by Concessionaire as part of this agreement, subject to the conditions provided in Section 11.01 through 11.05.

11.02 Installation Costs

All improvements, decor and equipment shall be furnished, supplied, installed and constructed by Concessionaire at Concessionaire's sole cost and expense.

11.03 Ownership During Term

Federal investment tax credit applicable to concession improvements shall belong to Concessionaire. Title to all furniture, furnishings, removable fixtures and supplies, furnished by the Concessionaire, shall remain their property during the term of the concession granted and until terminated, vacated or surrendered, after which it shall revert to the County.

11.04 Ownership Upon Termination

If the Concessionaire's occupancy is terminated by the County, the County will reimburse Concessionaire for the unamortized net book value of the proposed and completed improvements and approved equipment based upon a five year straight-line depreciation, with no residual value, provided the Concessionaire has obtained all necessary approvals for their construction, upon which its depreciation began, and also provided that architectural and design costs do not exceed 10 percent of the cost of the improvements and all said costs are properly supported and made available for audit. All said costs must be direct costs paid by Concessionaire to independent contractors and suppliers for work actually performed on said premises, materials and equipment furnished or professional services rendered. Costs associated with Concessionaire's employees shall be included in the calculation of these costs. To become reimbursable, the Concessionaire shall, at its expense, provide the County with "as-built" drawings and paid invoices, showing material and labor costs involved in the construction of the approved structural improvement and approved equipment provided within 90 days of the date that the improvement was put into service. Straight line depreciation shall begin on the first day of the month in which the improvement was placed into service. The Chief Administrative Officer may require Concessionaire to remove any or all of its removable improvements. Title to all improvements to which Concessionaire is reimbursed or which have been depreciated shall thereupon vest in County. In no case shall said amount exceed that which is stated in Section 4.06

11.05 Ownership Upon Expiration

Upon expiration of this agreement, ownership of all improvements and equipment constructed or installed upon the premises shall vest in County, without compensation to Concessionaire.

12. PERFORMANCE BONDS

12.01 During any period of construction hereby required or otherwise authorized, Concessionaire shall provide a performance bond in an amount of not less than 100 percent of the costs for the construction to be performed as estimated by the Chief Administrative Officer, payable to the County of Los Angeles and executed by a corporate surety authorized to conduct business as a surety in the State of California and acceptable to the Chief Administrative Office. The condition of the bond shall be such that if Concessionaire shall complete the required construction specified herein in accordance with approved plans and specifications and received permanent certificate of occupancy for the building, then surety shall no longer be bound thereon. Said bond shall be maintained in full force and effect by Concessionaire until said works of improvement have been accepted by the Chief Administrative Officer.

12.02 During any period of construction hereby required or otherwise authorized, Concessionaire shall provide a performance bond in an amount of not less than 100 percent of the costs for the construction to be performed as estimated by the Chief Administrative Officer, payable to the County of Los Angeles and executed by a corporate surety authorized to conduct business as a surety in the State of California and acceptable to the Chief Administrative Officer. The payment bond shall inure to the benefit of all claimants as said term is presently defined by Section 3085 of the California Civil Code, or may hereafter be amended, so as to give such claimants a right of action to recover thereon in any suit brought to foreclose the liens provided for in this Title 15 of Part 4, of Division 3 of the California Civil Code or in a separate suit brought upon the bond. The condition of the bond shall be such that if Concessionaire shall well and truly pay, or cause to be paid, all claims for labor, materials, appliances, teams, or power, or either or all, performed, furnished, or constructed in connection with said works of improvements, then surety shall no longer be bound thereon. Said bond shall be maintained in full force and effect until all claims for labor, materials, appliances, teams, or power have been paid, as evidenced by release of mechanic's liens by all claimants.

12.03 The Chief Administrative Officer may accept in lieu of the bonds heretofore described, the performance and payment bonds of corporations duly authorized to issue surety bonds by the State, naming as principal a licensed Contractor employed by Concessionaire to contract works of improvement on the concession premises, provided each bond is in an amount equal to the percentage herein provided above; names County as an additional obligee; contains terms and conditions substantially similar to the requirements heretofore specified; and is satisfactory as to sufficiency and liability of sureties named thereon.

12.04 Concessionaire shall have the option to deposit with the County cash or United States Government securities in all respects satisfactory to the Chief Administrative Officer in lieu of the surety obligations herein required. Said cash or securities shall be deemed deposited with the County to secure full and satisfactory performance of the principal obligations heretofore described for which surety is required, and shall be released upon satisfactory performance thereof, as evidenced by certification of completion by the Chief Administrative Officer and release of mechanic's liens by all claimants. In lieu thereof, Concessionaire may deposit the required amount in a bank whose deposits are insured under the Federal Deposit Insurance Act (12 U.S.C. 1811 et seq.), or a savings and loan whose deposits are insured under Title 4 of the National Housing Act (12 U.S.C. 1724 et seq.), provided the account is made payable to the County on demand and the certificate of deposit is delivered to the Chief Administrative Officer. Concessionaire shall be entitled to all interest on the deposit and the return of the Certificate upon satisfactory performance as heretofore defined.

13. SECURITY DEPOSIT

13.01 Prior to the commencement of this agreement, Concessionaire shall pay to the Auditor-Controller the sum of \$5,000. In lieu thereof, Concessionaire may deposit said amount in a commercial bank or savings and loan association acceptable to the Auditor-Controller, provided that a certificate of deposit is delivered to said Chief Administrative Officer giving County the right to withdraw any or all of said amount during the term of this agreement. Concessionaire shall be entitled to any and all interest accruing from said certificate of deposit.

13.02 Said sum shall serve as security for faithful performance of all covenants, promises and conditions assumed by Concessionaire herein, and may be applied in satisfaction or mitigation of damages arising from a breach thereof, including, but not limited to, delinquent payments, correction of maintenance deficiencies, loss of revenue due to abandonment, vacation or discontinuance of concession operations; discrimination; refunding of deposits for scheduled future events which are required to be canceled due to abandonment, vacation or discontinuance of concession operations, completion of construction and payment of mechanic's liens. Application of amounts on deposit in satisfaction or mitigation of damages shall be without prejudice to the exercise of any other rights provided herein or by law to remedy a breach of this agreement.

13.03 In the event any or all of said amount is applied in satisfaction or mitigation of damages, Concessionaire shall immediately deposit such sums as are necessary to restore the security deposit to the full amount required hereunder.

13.04 Said sum shall be returned to Concessionaire upon termination of this agreement less any amounts that may be withheld therefrom by the County as heretofore provided.

14. HOLD HARMLESS AND INDEMNIFICATION

14.01 Concessionaire shall indemnify, defend and hold harmless County, and its Special Districts, elected and appointed officers, employees, and agents from and against any and all liability, including but not limited to demands, claims, actions, fees, costs, and expenses (including attorney and expert witness fees), arising from or connected with Concessionaire's acts and/or omissions arising from and/or relating to this agreement by concessionaire or the agents, servants and employees thereof, including but not limited to, damages caused by negligence, creation or maintenance of a dangerous condition of property, breach of express or implied warranty of product, defectiveness of product, or intentional infliction of harm; nonpayment for labor, materials, appliances, teams or power, performed on, or furnished or contributed to the concession premises; infringement of a patent or copyright or disclosure of a trade secret; violation of State and Federal antitrust laws; and violation of Federal and State civil rights laws.

14.02 This promise of indemnity shall extend to all the covered liability, expenses, and claims notwithstanding that the act, omission, or condition giving rise thereto is proximately caused by the active or passive negligence of the County relating to the use of the concession premises, the concession operations or services, acts or omissions relating to the enforcement of this agreement, or a dangerous or defective condition of the concession premises. Concessionaire's duty to indemnify the County shall survive the expiration or other termination of this agreement.

15. INSURANCE

General Insurance Requirements: Without limiting Concessionaire's indemnification of County and during the term of this agreement, Concessionaire shall provide and maintain, and shall require all of its sub-contractors to maintain, the following programs of insurance specified in this agreement. Such insurance shall be primary to and not contributing with any other insurance or self-insurance programs maintained by County, and such coverage shall be provided and maintained at Concessionaire's own expense.

A. Evidence of Insurance: Certificate(s) or other evidence of coverage satisfactory to County shall be delivered to the Chief Administrative Office prior to commencing services under this agreement. Such certificates or other evidence shall:

(1) Specifically identify this agreement.

(2) Clearly evidence all coverages required in this agreement.

(3) Contain the express condition that County is to be given written notice by mail at least thirty (30) days in advance of cancellation for all policies evidenced on the certificate of insurance.

(4) Include copies of the additional insured endorsement to the commercial general liability policy, adding the County of Los Angeles, its Special Districts, its officials, officers and employees as insureds for all activities arising from this agreement.

(5) Identify any deductibles or self-insured retentions for County's approval. The County retains the right to require Concessionaire to reduce or eliminate such deductibles or self-insured retentions as they apply to County, or, require Concessionaire to provide a bond guaranteeing payment of all such retained losses and related costs, including, but not limited to, expenses or fees, or both, related to investigations, claims administrations, and legal defense. Such bond shall be executed by a corporate surety licensed to transact business in the State of California.

B. Insurer Financial Ratings: Insurance is to be provided by an insurance company acceptable to the County with an A.M. Best rating of not less than A:VII, unless otherwise approved by County.

C. **Failure to Maintain Coverage:** Failure by Concessionaire to maintain the required insurance, or to provide evidence of insurance coverage acceptable to County, shall constitute a material breach of the contract upon which County may immediately terminate or suspend this agreement. County, at its sole option, may obtain damages from Concessionaire resulting from said breach. Alternatively, County may purchase such required insurance coverage, and without further notice to Concessionaire, County may deduct from sums due to Concessionaire any premium costs advanced by County for such insurance.

D. **Notification of Incidents, Claims or Suits:** Concessionaire shall report to County:

(1) any accident or incident relating to services performed under this agreement which involves injury or property damage which may result in the filing of a claim or lawsuit against Concessionaire and/or County. Such report shall be made in writing within 24 hours of occurrence.

(2) any third party claim or lawsuit filed against Concessionaire arising from or related to services performed by Concessionaire under this agreement.

(3) any injury to a Concessionaire employee which occurs on County property. This report shall be submitted on a County "Non-employee Injury Report" to the County contract manager.

(4) any loss, disappearance, destruction, misuse, or theft of any kind whatsoever of County property, monies or securities entrusted to Concessionaire under the terms of this agreement.

E. **Compensation for County Costs:** In the event that Concessionaire fails to comply with any of the indemnification or insurance requirements of this agreement, and such failure to comply results in any costs to County, Concessionaire shall pay full compensation for all costs incurred by County.

F. **Insurance Coverage Requirements for Subcontractors:** Concessionaire shall ensure any and all subcontractors performing services under this agreement meet the insurance requirements of this agreement by either:

(1) Concessionaire providing evidence of insurance covering the activities of subcontractors, or

(2) Concessionaire providing evidence submitted by subcontractors evidencing that subcontractors maintain the required insurance coverage. County retains the right to obtain copies of evidence of subcontractors insurance coverage at any time.

G. **Insurance Coverage Requirements:**

(1) **General Liability** insurance (written on ISO policy form CG 00 01 or its equivalent) with limits of not less than the following:

For Concessionaires Who Will Operate at this single County Location Only, and Have No Operations at Other Non-County Locations:

General Aggregate:	\$2 million
Products/Completed Operations Aggregate:	\$1 million
Personal and Advertising Injury:	\$1 million
Each Occurrence:	\$1 million

For Concessionaires Who Will Operate at this County Location, and Also Operate at One or More Other Locations (County and/or Non-County):

General Aggregate:	\$4 million
Products/Completed Operations Aggregate:	\$2 million
Personal and Advertising Injury:	\$2 million
Each Occurrence:	\$2 million

(2) **Automobile Liability** insurance (written on ISO policy form CA 00 01 or its equivalent) with a limit of liability of not less than \$1 million for each accident. Such insurance shall include coverage for all “owned”, “hired” and “non-owned” vehicles, or coverage for “any auto”.

(3) **Workers Compensation and Employers’ Liability** insurance providing workers compensation benefits, as required by the Labor Code of the State of California or by any other state, and for which Concessionaire is responsible. If Concessionaire’s employees will be engaged in maritime employment, coverage shall provide workers compensation benefits as required by the U.S. Longshore and Harbor Workers’ Compensation Act, Jones Act or any other federal law for which Concessionaire is responsible.

In all cases, the above insurance also shall include Employers’ Liability coverage with limits of not less than the following:

Each Accident:	\$1 million
Disease - policy limit:	\$1 million
Disease - each employee:	\$1 million

(4) **Professional Liability**: Insurance covering liability arising from any error, omission, negligent or wrongful act of the Concessionaire, its officers or employees with limits of not less than \$1 million per occurrence and \$3 million aggregate. The coverage also shall provide an extended two year reporting period commencing upon termination or cancellation of this agreement.

(5) **Property Coverage**: Such insurance shall be endorsed naming the County of Los Angeles as loss payee, provide deductibles of no greater than 5% of the property value, and shall include:

Personal Property: Automobiles and Mobile Equipment - Special form ("all risk") coverage for the actual cash value of County-owned or leased property and Concessionaire's and its employee's owned or leased vehicles and mobile equipment.

Real Property and All Other Personal Property - Special form ("all-risk") coverage for the full replacement value of County-owned or leased property.

16. TAXES AND ASSESSMENTS

16.01 The property conveyed herein shall be subject to possessory interest taxes or assessment thereon, and in the event thereof, Concessionaire shall pay before delinquency all lawful taxes, assessments, fees or charges which at any time may be levied by the State, County, City or any other tax or assessment-levying body upon the concession premises and any improvements located thereon.

16.02 Concessionaire shall also pay all taxes, assessments, fees and charges on goods, merchandise, fixtures, appliances and equipment owned or used thereon.

17. TRANSFERS

17.01 In entering into this agreement, County has specifically bargained for the provision of services and other consideration due it by the named concessionaire. Accordingly, no transfer of this concession agreement, or any part thereof, is allowed. Any transfer of this agreement, whether by sale, assignment, sublease or otherwise is absolutely prohibited. In the event that Concessionaire attempts to make such a prohibited transfer, the attempted transfer shall be void and of no effect. Furthermore, County may, at its sole option, treat the attempted transfer as a material breach of this agreement and terminate this agreement.

A transfer under this section shall include a change in the beneficial ownership of Concessionaire (other than a transfer to a family trust) of more than fifty percent (50%).

17.02 Each and all of the provisions, agreements, terms, covenants and conditions herein contained to be performed by Concessionaire shall be binding upon any transferee thereof.

17.03 The concession shall not be transferable by testamentary disposition of the state laws of interstate succession, as the rights, privileges, and use conferred by this agreement shall terminate prior to the date for expiration thereof in the event of the death of Concessionaire occurring within the term herein provided. Additionally, neither this agreement nor any interest therein shall be transferable in proceedings in attachment or execution against Concessionaire, or in voluntary or involuntary proceedings in bankruptcy or insolvency or receivership taken by or against Concessionaire, or by any process of law including proceedings under Chapter X or XI of the Bankruptcy Act.

17.04 Shareholders or partners of Concessionaire may transfer, sell, exchange, assign or divest themselves of any interest they may have therein. However, in the event any such sale, transfer, exchange, assignment or divestment is affected in such a way as to give majority control of Concessionaire to any persons, corporations, partnership or legal entity other than the majority controlling interest therein at the time of the execution of this agreement, approval thereof shall be required. Consent to any such transfer shall be refused if the Chief Administrative Officer finds that the transferee is lacking in experience, financial ability to conduct the concession, the proposed sale is an attempt to circumvent section 17.01 above, or for other just cause as determined by the Chief Administrative Officer.

17.05 The prohibition herein contained shall not be applicable with respect to transfers of this agreement arising from the exercise of a power of sale or judicial foreclosure pursuant to the terms and conditions of a hypothecation or mortgage previously approved by the Chief Administrative Officer.

18. NON-DISCRIMINATION

18.01 Concessionaire certifies and agrees that all persons employed thereby or the affiliates, subsidiaries or holding companies thereof are and shall be treated equally without regard to or because of race, religion, ancestry, national origin or sex, and in compliance with all federal and state laws prohibiting discrimination in employment, including, but not limited to, the Federal Civil Rights Act of 1964; the Unruh Civil Rights Act; and Cartwright Act; and the State Fair Employment Practices Act.

18.02 Concessionaire certifies and agrees that sub-concessionaires, bidders, and vendors thereof are and shall be selected without regard to or because of race, religion, ancestry, national origin or sex.

18.03 All employment records shall be open for inspection and reinspection at any reasonable time during the term of this agreement for the purpose of verifying the practice of nondiscrimination by Concessionaire in the areas heretofore described.

18.04 The sum of TWO-THOUSAND DOLLARS (\$2,000.00) is hereby agreed upon as the amount of damages that will be sustained by the County for breach of the promises on nondiscrimination herein contained. Said amount has been set by the parties hereto in recognition of the difficulty in fixing actual damages arising from a breach thereof.

19. CANCELLATION

19.01 Upon the occurrence of any one or more of the events of default hereinafter described, this agreement shall be subject to cancellation. As a condition precedent thereto, the Chief Administrative Officer shall give Concessionaire ten days notice by registered or certified mail of the date set for cancellation thereof; the grounds therefor; and that an opportunity to be heard thereon will be afforded on or before said date, if request is made thereafter.

19.02 Upon cancellation, County shall have the right to take possession of the concession premises, including all improvements, equipment, and inventory located thereon, and use for the purpose of satisfying or mitigating all damages arising from a breach of this agreement.

19.03 Action by County to effectuate a cancellation and forfeiture of possession shall be without prejudice to the exercise of any other rights provided herein or by law to remedy a breach of this agreement.

19.04 Any trustee, beneficiary, mortgage or lender under hypothecation or mortgage previously approved by the Chief Administrative Officer shall have the right at any time during the term of this agreement, to undertake any and all actions that may be required in order to prevent a cancellation of this agreement and a forfeiture of the concession. Accordingly, the Chief Administrative Officer shall send a copy of any intended cancellation of this agreement to any of the aforementioned parties whose security would be affected thereby and upon request thereof for postponement, extend the date set therefor by such time as the Chief Administrative Officer finds reasonable in order to allow said parties to correct the grounds therefor or to provide a new Concessionaire under a power of sale or foreclosure contained in the hypothecation or mortgage, who upon transfer thereto shall become responsible for the correction therefor within such time as may be allowed by the Chief Administrative Officer.

20. EVENTS OF DEFAULT

20.01 The abandonment, vacation or discontinuance of operations of the concession premises for more than 48 consecutive hours.

20.02 The failure of Concessionaire to punctually pay or make the payments required hereunder when due, where the delinquency continues beyond ten days following written notice for payment thereof.

20.03 The failure of Concessionaire to operate in the manner required by this agreement, where such failure continues for more than ten days after written notice from the Chief Administrative Officer to correct the conditions therein specified.

20.04 The failure to maintain the concession premises, the equipment and the improvements constructed thereon in the state of repair required hereunder, and in a clean, sanitary, safe and satisfactory condition where such failure continues for more than 10 days after written notice from the Chief Administrative Officer to correct the condition.

20.05 The failure of Concessionaire to keep, perform, and observe all other promises, covenants, conditions and agreements set forth in this agreement, where such failure continues for more than ten days after written notice from the Chief Administrative Officer for correction thereof, provided that where fulfillment of such obligation requires activity over a period of time and Concessionaire shall have commenced to perform whatever may be required to cure the particular default within 10 days after such notice and continues such performance diligently, said time may be waived in the manner and to the extent allowed by the Chief Administrative Officer.

20.06 The filing of a voluntary petition in bankruptcy; the appointment of any receiver of Concessionaire's assets; the making of a general assignment for the benefit of creditors; a petition or answer seeking an arrangement for the reorganization of Concessionaire under any Federal Reorganization Act, including petitions or answers under Chapters X or XI of the Bankruptcy Act; the occurrence of any act which operates to deprive Concessionaire permanently of the rights, powers and privileges necessary for the proper conduct and operations of the concession; the levy of any attachment or execution which substantially interferes with attachment or execution is not vacated, dismissed, stayed or set aside within a period of 60 days.

20.07 Determination by the Chief Administrative Officer, the State Fair Employment Commission, or the Federal Equal Employment Opportunity Commission of discrimination, or having been practiced by Concessionaire in violation of State or Federal laws thereon.

20.08 Transfer of the majority controlling interest of Concessionaire to persons other than those who are in control at the time of the execution of this agreement without approval thereof by the Chief Administrative Officer.

21. DESTRUCTION OF CONCESSION PREMISES

21.01 In the event the concession premises shall be totally or partially destroyed by fire, earthquake, flood, storms, war, insurrection, riot, public disorder, casualty, County shall either restore the premises or terminate this agreement.

21.02 Should County elect to restore the premises, this agreement shall continue in full force and effect except that the payments to be made by Concessionaire shall be abated or other relief afforded to the extent that the Chief Administrative Officer may determine the damage or restoration interferes with the concession.

21.03 Concessionaire agrees to cooperate with County in the restoration of the concession premises by vacating and removing therefrom all items of inventory, trade fixture, equipment and furnishings for such periods as are required for the restoration thereof. Concessionaire further agrees to cooperate in the determination of the abatement and/or other relief to be provided by furnishing all information requested related to the concession, and permitting examination and audit of all accounting records kept in connection with the conduct thereof.

21.04 The aforesaid provisions of this section shall also be applicable to a total or partial destruction of the facilities by the aforementioned causes, except that the relief to be provided shall be based upon the extent the Chief Administrative Officer may determine that the reduction in the public's use of the facilities, due to the partial or total closure thereof, has affected the concession.

21.05 Concessionaire agrees to accept the remedy heretofore provided in the event of a destruction of the concession premises, and hereby waives any or all additional rights and remedies for relief or compensation that are presently available or may hereinafter be made available under the laws and statutes of this state.

22. CONSTRUCTION BY COUNTY AFFECTING CONCESSION PREMISES

22.01 In the event County shall construct or cause to be constructed a new facility for the concession, this agreement shall continue in full force and effect, except that the payment to be made by Concessionaire will be abated and/or relief afforded to the extent that the Chief Administrative Officer may determine the construction interferes with the concession.

22.02 Concessionaire agrees to cooperate with County in the event the construction affects the concession premises by vacating and removing therefrom all items of inventory, trade fixtures, equipment and furnishings for such periods as are required by the construction of the new facilities. Concessionaire further agrees to cooperate in the determination of the abatement or other relief to be provided by furnishing all information requested relative to the concession and permitting examination and audit of all accounting records kept in connection with the conduct thereof.

22.03 The aforementioned provisions of this section shall also be applicable in the event of performance of work on the Concessionaire's premises requires a partial or total closure thereof, except that the abatement or other relief to be provided shall be based upon the extent the Chief Administrative Officer may determine that the reduction in the public's use of the facility due to the partial or total closure thereof, has affected the concession.

22.04 Concessionaire agrees to accept the remedy heretofore provided in the event of construction upon the concession premises and hereby waives any or all additional rights and remedies for relief or compensation that are presently available or may be made available hereinafter under the laws and statutes of this state.

23. WAIVER

23.01 Any waiver by County of any breach of any one or more of the covenants, conditions, terms and agreements herein contained shall not be construed to be a waiver of any subsequent or other breach of the same or of any other covenant, condition, term or agreement herein contained, nor shall failure on the part of County to require exact, full and complete compliance with any of the covenants, conditions, terms or agreements or estopping County from enforcing the full provisions thereof.

23.02 No delay, failure or omission of County to re-enter the concession premises or to exercise any rights, power, privilege or option, arising from any default, nor any subsequent acceptance of payment then or thereafter accrued shall impair any such right, power, privilege or option, or acquiescence in such default or as a relinquishment of any right.

23.03 No notice to Concession shall be required to restore or revive "time of the essence" after the waiver by County of any default.

23.04 No option, right, power, remedy or privilege of the County shall be construed as being exhausted by the exercise thereof in one or more instances. The rights, powers, options and remedies given the County by this agreement shall be cumulative.

24. RIGHT OF ENTRY

24.01 Any officer or employee of the County may enter upon the concession premises at any and all reasonable times for the purpose of determining whether or not Concessionaire is complying with the terms and conditions thereof, or for any other purpose incidental to the rights of the County.

24.02 In the event of an abandonment, vacation or discontinuance of concession operations for a period in excess of 48 hours, Concessionaire hereby irrevocably appoints the County as an agent for continuing operation of the concession granted herein, and in connection therewith authorizes the officers and employees thereof to (1) take possession of the concession premises, including all improvements, equipment and inventory thereon; (2) remove any and all persons or property on said premises and place any such property in storage for the account of and at the expense of Concessionaire; (3) sublease or license the premises; and (4) after payment of all expenses of such subleasing or licensing apply all payment realized therefrom to the satisfaction or mitigation of all damages arising from Concessionaire's breach of this agreement. Entry by the offices and employees of the County upon the concession premises for the purpose or exercising the authority conferred hereon as agent of Concessionaire shall be without prejudice to the exercise of any other rights provided herein or by law to remedy a breach of this concession agreement.

25. SURRENDER

25.01 Upon expiration of the term hereof, or cancellation thereof as herein provided, Concessionaire shall peaceably vacate the concession premises and any and all improvements located thereon and deliver up the same to County in a reasonable good condition, ordinary wear and tear excepted.

26. TERMINATION FOR IMPROPER CONSIDERATION

26.01 The County may, by written notice to Concessionaire, immediately terminate the right of Concessionaire to proceed under this agreement if it is found that consideration, in any form, was offered or given by Concessionaire, either directly or through an intermediary, to any County officer, employee or agent with the intent of securing the agreement or securing favorable treatment with respect to the award, amendment or extension of the agreement or the making of any determination with respect to the Concessionaire's performance pursuant to the agreement. In the event of such termination, the County shall be entitled to pursue the same remedies against Concessionaire as it could pursue in the event of default by the Concessionaire.

26.02 Concessionaire shall immediately report any attempt by a County officer or employee to solicit such improper consideration. The report shall be made either to the County manager charged with the supervision of the employee or to the County Auditor-Controller's Employee Fraud Hotline at (213) 974-0914 or (800) 544-6881.

26.03 Among other items, such improper consideration may take the form of cash, discounts, service, the provision of travel or entertainment, or tangible gifts.

27. LOBBYIST ORDINANCE

27.01 Concessionaire and each County lobbyist or County lobbying firm as defined in Los Angeles County Code Section 2.160.010, retained by Concessionaire, shall fully comply with the County Lobbyist Ordinance, Los Angeles County Code Chapter 2.160. Failure on the part of Concessionaire or any County lobbyist or County lobbying firm retained by Concessionaire to fully comply with the County Lobbyist Ordinance shall constitute a material breach of this agreement upon which the County may immediately terminate or suspend this agreement.

28. REFERRAL OF CURRENT AND FORMER COUNTY EMPLOYEES FOR EMPLOYMENT WITH CONCESSIONAIRE

28.01 Concessionaire shall accept referrals from County Human Resources of qualified current and former County employees for consideration of employment with Concessionaire. Such consideration for employment shall be limited to the vacancies in Concessionaire's staff needed to perform services under this agreement. If such referrals results in offers of employment such offers shall be made once, shall be in writing, shall indicate whether the position is full-time or part-time, and shall be valid for a period of 10 calendar days from the date the offer is made, unless such period is extended at

Concessionaire's option. Such offers shall be for vacancies which occur in Concessionaire's staff, beginning with Board approval of this agreement and throughout the term of this agreement. Employment offers to such employees shall be under at least the same conditions and rates of compensation which apply to the other persons who are employed or may be employed by Concessionaire. Concessionaire shall maintain records of such offers to include a description of the position and duties, the rate of pay and fringe benefits, and whether the offer was accepted, rejected, or not responded to within the allocated time period. Such employees who are employed by Concessionaire under this paragraph shall not be discharged during the term of this agreement except for cause. At the time of any such discharge for cause, Concessionaire shall in writing notify Human Resources staff or other County staff which may be designated in writing by the Chief Administrative Officer. Notwithstanding any other provision of this agreement, the parties do not in any way intend that any persons shall acquire any rights as a third party beneficiary of this agreement.

29. COUNTY'S QUALITY ASSURANCE PLAN

29.01 The Chief Administrative Officer will evaluate Concessionaire's performance under this agreement on an annual basis. Such evaluation will include assessing Concessionaire's compliance with all contract terms and performance standards. Concessionaire's deficiencies which County determines are severe or continuing and that may place performance of the agreement in jeopardy if not corrected will be reported to the Board of Supervisors. The report will include improvement/corrective action measures taken by the County and Concessionaire. If improvement does not occur consistent with the corrective action measures, the County may terminate this agreement, or impose other penalties as specified in this agreement.

30. CONCESSIONAIRE'S WARRANTY OF ADHERENCE TO COUNTY'S CHILD SUPPORT COMPLIANCE PROGRAM

30.01 Concessionaire acknowledges that the County has established a goal of ensuring that all individuals who benefit financially from the County through County contracts are in compliance with their court-ordered child, family, and espousal support obligations in order to mitigate the economic burden otherwise imposed upon the County and its taxpayers.

30.02 As required by the County's Child Support Compliance Program (County Code Chapter 2.200) and without limiting Concessionaire's duty under this agreement to comply with all applicable provisions of law, Concessionaire warrants that it is in compliance and shall, during the term of this agreement, maintain compliance with employment and wage reporting requirements as required by the Federal Social Security Act (42 USC Section 653a) and California Unemployment Insurance Code Section 1088.55, and shall implement all lawfully served Wage and Earnings Withholding Orders or District Attorney Notices of Wage and Earnings Assignment for Child or Espousal Support, pursuant to Code of Civil Procedure Section 706.031 and Family Code Section 5246(b).

30.03 Within 30 calendar days of renewal or term extension amendment to this agreement of at least one year, Concessionaire shall submit to the County's District Attorney a completed Principal Owner Information Form (POI Form), incorporated herein by reference, along with certifications in accordance with the provisions of section 2.200.060 of the County Code, that: (1) the POI Form has been appropriately completed and provided to the DA with respect to Concessionaire's Principal Owners; (2) Concessionaire has fully complied with all applicable State and Federal reporting requirements relating to employment reporting for its employees; and (3) Concessionaire has fully complied with all lawfully served Wage and Earnings Assignment Orders and Notices of Assignment and will continue to maintain compliance. Such certification shall be submitted on the Child Support Compliance Program Certification (CSCPC), also incorporated herein by reference. Failure of Concessionaire to submit the CSCPC which includes certification that the POI Form has been submitted to County's DA shall represent a material breach of contract upon which County may immediately suspend or terminate this agreement.

31. TERMINATION FOR BREACH OF WARRANTY TO MAINTAIN COMPLIANCE WITH COUNTY'S CHILD SUPPORT COMPLIANCE PROGRAM

31.01 Failure of Concessionaire to maintain compliance with the requirements set forth in Concessionaire's Warranty of Adherence to County's Child Support Compliance Program shall constitute a default by Concessionaire under this agreement. Without limiting the rights and remedies available to County under any other provision of this agreement, failure to cure such default within 90 calendar days of written notice by County's District Attorney shall be grounds upon which the County may terminate this agreement.

31.02 Concessionaire shall immediately report any attempt by a County officer or employee to solicit such improper consideration. The report shall be made either to the County manager charged with the supervision of the employee or to the County Auditor-Controller's Employee Fraud Hotline at (213) 974-0914 or (800) 544-6881.

31.03 Among other items, such improper consideration may take the form of cash, discounts, service, the provision of travel or entertainment, or tangible gifts.

32. CONCESSIONAIRE'S ACKNOWLEDGMENT TO COUNTY'S CHILD SUPPORT ENFORCEMENT

32.01 Concessionaire acknowledges that the County places a high priority on the enforcement of child support laws and the apprehension of child support evaders. Concessionaire understands that it is the County's policy to encourage all County concessionaires to voluntarily post County's "L.A.'s Most Wanted Delinquent Parents" poster in a prominent location at Concessionaire's place of business. The County's District Attorney will supply Concessionaire with the poster to be used.

33. INDEPENDENT CONTRACTOR

33.01 In performing the obligations hereunder, Concessionaire is engaged solely in the capacity of independent contractor, it being expressly understood that no relationship between the contracting parties hereto other than that of independent Concessionaire has been or is intended to be created. This concession agreement does not constitute and the parties hereto do not intend to create thereby a partnership or a joint venture, or a relationship of master and servant or principal and agent as it is mutually understood and agreed that the relationship created thereby and the construction of rights and duties thereunder is to be determined in accordance with the laws relating to owners and occupants of real property.

34. ENFORCEMENT

34.01 The Chief Administrative Officer shall be responsible for the enforcement and management of this agreement on behalf of the County and shall be assisted therein by those officers and employees of the County having duties in connection with the administration thereof.

35. GRATUITIES

35.01 It is improper for any County officer, employee or agent to solicit consideration, in any form, from a proposer with the implication, suggestion or statement that the proposer's provision of the consideration may secure more favorable treatment for the proposer in the award of the contract or that the proposer's failure to provide such consideration may negatively affect the County's consideration of the proposer's submission. A proposer shall not offer or give, either directly or through an intermediary, consideration, in any form, to a County officer, employee or agent for the purpose of securing treatment with respect to the award of the contract.

35.02 A proposer shall immediately report any attempt by a County officer, employee or agent to solicit such improper consideration. The report shall be made either to the County manager charged with the supervision of the employee or to the County Auditor-Controller's Employee Fraud Hotline at (213) 974-0914 or (800) 544-6861. Failure to report such a solicitation may result in the proposer's submission being eliminated from consideration.

35.03 Among other items, such improper consideration may take the form of cash, discounts, service, the provision of travel or entertainment, or tangible gifts.

36. CONCESSIONAIRE DEBARMENT

36.01 On January 11, 2000, the Los Angeles County Board of Supervisors adopted an ordinance for Determinations of Concessionaire Non-Responsibility and Concessionaire Debarment (Ordinance), Los Angeles County Code Chapter 2.202, which is applicable to all County contracts except to the extent applicable State and/or Federal laws are inconsistent with the terms of the Ordinance.

A. A responsible Concessionaire is a concessionaire who has demonstrated the attribute of trustworthiness, as well as quality, fitness, capacity and experience to the satisfactorily perform the contract. It is the County's policy to conduct business only with responsible concessionaires.

B. The Concessionaire is hereby notified that, in accordance with Chapter 2.202 of the County Code, if the County acquires information concerning the performance of the Concessionaire on this or other contracts which indicates that the Concessionaire is not responsible, the County, may, in addition to other remedies provided in the contract, debar the Concessionaire from bidding on County contracts for a specified period of time not to exceed 3 years and terminate any or all existing contracts the Concessionaire may have with the County.

C. The County may debar a Concessionaire if the Board of Supervisors finds in its decision, that the Concessionaire has done any of the following: (1) violated any term of a contract with the County, (2) committed any act or omission which negatively reflects on the Concessionaire's quality, fitness or capacity to perform a contract with the County or any other public entity, or engaged in a pattern or practice which negatively reflects on same, (3) committed an act or offense which indicates a lack of business integrity or business honesty, or (4) made or submitted a false claim against the County or any other public entity.

D. If there is evidence that the Concessionaire may be subject to debarment, the Department will notify the Concessionaire in writing of the evidence which is the basis for the proposed debarment and will advise the Concessionaire of the scheduled date for a debarment hearing before the Concessionaire Hearing Board.

E. The Concessionaire Hearing Board will conduct a hearing where evidence on the proposed debarment is presented. The Concessionaire and/or the Concessionaire's representative shall be given an opportunity to submit evidence at that hearing. After the hearing, the Concessionaire Hearing Board shall prepare a proposed decision, which shall contain a recommendation regarding whether the Concessionaire should be debarred; and, if so, the appropriate length of time of the debarment. If the Concessionaire fails to avail itself of the opportunity to submit evidence to the Concessionaire Hearing Board, the Concessionaire may deemed to have waived all rights of appeal.

37. INTERPRETATION

37.01 This agreement shall be interpreted according to the rules which govern the interpretation of contracts, as prescribed in Part 2 of Division 3 of the State Civil Code, commencing with Section 1635.

37.02 The headings herein-contained are for convenience and reference only and are not intended to define or limit the scope of any provisions hereof.

37.03 The following words as used herein shall be construed to have the following meaning, unless otherwise apparent from the context in which they are used:

County: Shall mean the County of Los Angeles

Chief Administrative Officer: The Chief Administrative Officer of the County of Los Angeles or an authorized representative thereof.

Auditor-Controller: The County Auditor-Controller or an authorized representative thereof.

Beverage: Any liquid prepared by flavoring, heating and/or admixing in advance of consumption thereof, other than alcoholic beverages as defined in the State Alcoholic Beverages Control Act.

Food service facility: A cafeteria operated for the exclusive use of County employees and the guests thereof, including those employees who furnish their own meals for consumption therein.

Concessionaire: A vendor authorized, under this Agreement, to design, construct, and enhance the food service facility for the purpose of providing food service to County employees and the public.

Gross Receipts: All money, cash, receipts, assets, property or other things of value, including, but not limited to, gross charges, sales, rental, fees and commissions made or earned by Concessionaire, and/or assignees, subleases, or permittees thereof, whether collected or accrued from business, use or occupation, or any combination thereof, transacted, performed in whole or in part, on the concession premises, including, but not limited to, rental, the rendering or supplying of services and the sale of goods, wares or merchandise. Gross receipts shall not include the following:

a. Sales and excise taxes applicable thereto, required to be collected by Concessionaire or permittees thereof.

b. Federal, state, municipal or other taxes collected from the consumers, regardless or whether the amount thereof as stated to the consumer as a separate charge, provided the amount of such taxes shall be shown on the accounting records for the concession as hereinafter required.

c. Receipts from the sale or trade-in value of any equipment used on the concession premises and owned by Concessionaire.

d. Receipts in the form of refunds from or the value of merchandise, supplies or equipment returned to the shippers, suppliers or manufacturers.

e. Receipts with respect to any sale where the subject of such sale or some part thereof, is thereafter returned by the purchaser and accepted by Concessionaire, to the extent of any refund actually granted or adjustment actually made, either in the form of cash or credit.

Net Profit: Net profit shall be computed by deducting from gross receipts all expenses paid or incurred by Concessionaire which are directly related to the concession operation for said contract year. These expenses consist of salaries and benefits for employees, including an on-site manager, performing services and labor on the premises, food costs, costs of expendable items such as eating and cooking utensils, costs of utilities, waste disposal, maintenance and repair costs, depreciation on equipment owned by Concessionaire (useful life shall be the period of this contract) and the costs of insurance, taxes, licenses and fees prorated on the basis of a contract year. Said direct expenses shall not include administrative expenses, such as management salaries, accounting, auditing, clerical and other services generally classified as overhead. In the event there is any conflict or disagreement as to what constitutes a direct expense, the opinion of the County's Auditor-Controller shall be decisive in the matter.

State: The State of California.

38. NOTICES

38.01 Any notices required to be given under the terms of this concession agreement or any law applicable thereto may be placed in a sealed envelope, with postage paid, addressed to the person on whom it is to be served, and deposited in a post office mail box, sub-post office, substation or mail chute, or other like facility regularly maintained by the United States Postal Service. The address to be used for any notice served by mail upon Concessionaire shall be:

Morrison Management Specialists
5801 Peachtree Dunwoody Rd.
Atlanta, GA 30312

or such other place as any hereinafter be designated in writing to the Chief Administrative Officer by Concessionaire.

38.02 Any notice served by mail upon County shall be addressed to:

The Chief Administrative Office
Real Estate Division
222 South Hill Street, 3rd Floor
Los Angeles, CA 90012
Attention: Carlos Brea

or such other place as may hereinafter be designated in writing to Concessionaire by the Chief Administrative Officer. Service by mail shall be deemed complete upon deposit in the above-mentioned manner.

39. COUNTY'S NON-RESPONSIBILITY FOR SALES PROCEEDS

The Concessionaire represents it has made its own determinations for the profitability and viability of the concession herein including traffic counts of possible patrons, previous sales history, if any, and has not relied on any representations made by the County or its staff or representatives. The County assumes no liability for any sales losses whatsoever caused by the reduction of its staff or public clientele, damages to the premises, relocation of patron traffic and access, boycotts, strikes, relocation of premises, or any other reason whatsoever.

40. COMPLIANCE WITH LIVING WAGE PROGRAM

A. Living Wage Program.

This contract is subject to the provisions of the County's ordinance entitled Living Wage Program ("Program") as codified in Sections 2.201.010 through 2.201.100 of the Los Angeles County Code, a copy of which is attached hereto and incorporated by reference into and made a part of the contract.

B. Payment of Living Wage Rates.

1. Unless Concessionaire has demonstrated to the County's satisfaction either that Concessionaire is not an "Employer" as defined under the Program (Section 2.201.020 of the County Code) or that Concessionaire qualifies for an exception to the Program (Section 2.201.090 of the County Code), Concessionaire shall pay its Employees no less than the applicable hourly living wage rate, as set forth immediately below, for the Employees' services provided to the County under the contract:

a. Not less than \$9.46 per hour if, in addition to the per-hour wage, Concessionaire contributes less than \$1.14 per hour towards the provision of bona fide health care benefits for its Employees and any dependents; or

b. Not less than \$8.32 per hour if, in addition to the per-hour wage, Concessionaire contributes at least \$1.14 per hour towards the provision of bona fide health care benefits for its Employees and any dependents. Concessionaire will be deemed to have contributed \$1.14 per hour towards the provision of bona fide health care benefits if the benefits are provided through the County Department of Health Services Community Health Plan. If, at any time during the contract, Concessionaire contributes less than \$1.14 per hour towards the provision of bona fide health care benefits, Concessionaire shall be required to pay its Employees the higher hourly living wage rate.

2. For purposes of this Section, "Concessionaire " includes any subcontractor engaged by Concessionaire to perform services for the County under the contract. If Concessionaire uses any subcontractor to perform services for the County under the contract, the sub-concessionaire shall be subject to the provisions of this Section. The provisions of this Section shall be inserted into any such subcontract agreement and a copy of the Program shall be attached to the agreement. "Employee" means any

individual who is an employee of Concessionaire under the laws of California, and who is providing full-time services to Concessionaire, some or all of which are provided to the County under the contract. "Full-time" means a minimum of 40 hours worked per week, or a lesser number of hours, if the lesser number is a recognized industry standard and is approved as such by the County; however, fewer than 35 hours worked per week will not, in any event, be considered full time.

3. If Concessionaire is required to pay a living wage when the contract commences, Concessionaire shall continue to pay a living wage for the entire term of the contract, including any option period.

4. If Concessionaire is not required to pay a living wage when the contract commences, Concessionaire shall have a continuing obligation to review the applicability of its "exemption status" from the living wage requirement, and Concessionaire shall immediately notify County if Concessionaire at any time either comes within the Program's definition of "Employer" or if Concessionaire no longer qualifies for an exception to the Program. In either event, Concessionaire shall immediately be required to commence paying the living wage and shall be obligated to pay the living wage for the remaining term of the contract, including any option period. The County may also require, at any time during the contract and at its sole discretion, that Concessionaire demonstrate to the County's satisfaction that Concessionaire either continues to remain outside of the Program's definition of "Employer" and/or that Concessionaire continues to qualify for an exception to the Program. Unless Concessionaire satisfies this requirement within the time frame permitted by the County, Concessionaire shall immediately be required to pay the living wage for the remaining term of the contract, including any option period.

C. Concessionaire's Submittal of Certified Monitoring Reports.

Concessionaire shall submit to the County certified monitoring reports at a frequency instructed by the County. The certified monitoring reports shall list all of Concessionaire's Employees during the reporting period. The certified monitoring reports shall also verify the number of hours worked, the hourly wage rate paid, and the amount paid by Concessionaire for health benefits, if any, for each of its

Employees. The certified monitoring reports shall also state the name and identification number of Concessionaire's current health care benefits plan, and Concessionaire's portion of the premiums paid as well as the portion paid by each Employee. All certified monitoring reports shall be submitted on forms provided by the County, or any other form approved by the County which contains the above information. The County reserves the right to request any additional information it may deem necessary. If the County requests additional information, Concessionaire shall promptly provide such information. Concessionaire, through one of its officers, shall certify under penalty of perjury that the information contained in each certified monitoring report is true and accurate.

D. Concessionaire's Ongoing Obligation to Report Labor Law/Payroll Violations and Claims.

During the term of the contract, if the Concessionaire becomes aware of any labor law/payroll violation or any complaint, investigation or proceeding ("claim") concerning any alleged labor law/payroll violation (including but not limited to any violation or claim pertaining to wages, hours and working conditions such as minimum wage, prevailing wage, living wage, the Fair Labor Standards Act, employment of minors, or unlawful employment discrimination), the Concessionaire shall immediately inform the County of any pertinent facts known by the Concessionaire regarding same. This disclosure obligation is not limited to any labor law/payroll violation or claim arising out of the Concessionaire's contract with the County, but instead applies to any labor law/payroll violation or claim arising out of any of the Concessionaire's operations in California.

E. County Auditing of Concessionaire Records.

Upon a minimum of twenty-four (24) hours' written notice, the County may audit, at Concessionaire's place of business, any of Concessionaire's records pertaining to the contract, including all documents and information relating to the certified monitoring reports. Concessionaire is required to maintain all such records in California until the expiration of four years from the date of final payment under the contract. Authorized agents of the County shall have access to all such records during normal business hours for the entire period that records are to be maintained.

F. Notifications to Employees.

Concessionaire shall place County-provided living wage posters at each of Concessionaire's place of business and locations where Concessionaire's employees are working. Concessionaire shall also distribute County-provided notices to each of its employees at least once per year. Concessionaire shall translate into Spanish and any other language spoken by a significant number of employees the posters and hand outs.

G. Enforcement and Remedies.

If Concessionaire fails to comply with the requirements of this Section, the County shall have the rights and remedies described in this Section in addition to any rights and remedies provided by law or equity.

1. Remedies For Submission of Late or Incomplete Certified Monitoring Reports. If Concessionaire submits a certified monitoring report to the County after the date it is due or if the report submitted does not contain all of the required information or is inaccurate or is not properly certified, any such deficiency shall constitute a breach of the contract. In the event of any such breach, the County may, in its sole discretion, exercise any or all of the following rights/remedies:

a. Withholding of Payment. If Concessionaire fails to submit accurate, complete, timely and properly certified monitoring reports, the County may withhold from payment to Concessionaire up to the full amount of any invoice that would otherwise be due, until Concessionaire has satisfied the concerns of the County, which may include required submittal of revised certified monitoring reports or additional supporting documentation.

b. Liquidated Damages. It is mutually understood and agreed that Concessionaire's failure to submit an accurate, complete, timely and properly certified monitoring report will result in damages being sustained by the County. It is also understood and agreed that the nature and amount of the damages will be extremely difficult and impractical to fix; that the liquidated damages set forth herein are the nearest and most exact measure of damages for such breach that can be fixed at this time; and that the liquidated damages are not intended as a penalty or forfeiture for Concessionaire's breach. Therefore, in the event that a certified monitoring report is deficient, including but not limited to being late, inaccurate, incomplete or uncertified, it is agreed that the County may, in its sole discretion, assess against Concessionaire liquidated damages in the amount of \$100 per monitoring report for each day until the County has been provided with a properly prepared, complete and certified monitoring report. The County may deduct any assessed liquidated damages from any payments otherwise due Concessionaire .

c. Termination. Concessionaire's failure to submit an accurate, complete, timely and properly certified monitoring report may constitute a material breach of the contract. In the event of such material breach, County may, in its sole discretion, terminate the contract.

2. Remedies for Payment of Less Than the Required Living Wage. If Concessionaire fails to pay any employee at least the applicable hourly living wage rate, such deficiency shall constitute a breach of the contract. In the event of any such breach, the County may, in its sole discretion, exercise any or all of the following rights/remedies:

a. Withholding Payment. If Concessionaire fails to pay one or more of its employees at least the applicable hourly living wage rate, the County may withhold from any payment otherwise due Concessionaire the aggregate difference between the living wage amounts Concessionaire was required to pay its employees for a given pay period and the amount actually paid to the employees for that pay period. The County may withhold said amount until Concessionaire has satisfied the County that any underpayment has been cured, which may include required submittal of revised certified monitoring reports or additional supporting documentation.

b. Liquidated Damages. It is mutually understood and agreed that Concessionaire's failure to pay any of its employees at least the applicable hourly living wage rate will result in damages being sustained by the County. It is also understood and agreed that the nature and amount of the damages will be extremely difficult and impractical to fix; that the liquidated damages set forth herein are the nearest and most exact measure of damages for such breach that can be fixed at this time; and that the liquidated damages are not intended as a penalty or forfeiture for Concessionaire's breach. Therefore, it is agreed that the County may, in its sole discretion, assess against Concessionaire liquidated damages of \$50 per employee per day for each and every instance of an underpayment to an employee. The County may deduct any assessed liquidated damages from any payments otherwise due Concessionaire.

c. Termination. Concessionaire's failure to pay any of its employees the applicable hourly living wage rate may constitute a material breach of the contract. In the event of such material breach, County may, in its sole discretion, terminate the contract.

3. Debarment. In the event Concessionaire breaches a requirement of this Section, the County may, in its sole discretion, bar Concessionaire from the award of future County contracts for a period of time consistent with the seriousness of the breach, not to exceed three years.

H. Use of Full-Time Employees.

Concessionaire shall assign and use full-time employees of Concessionaire to provide services under the contract unless Concessionaire can demonstrate to the satisfaction of the County that it is necessary to use non-full-time employees based on staffing efficiency or County requirements for the work to be performed under the contract. It is understood and agreed that Concessionaire shall not, under any circumstance, use non-full-time employees for services provided under the contract unless and until the County has provided written authorization for the use of same. Concessionaire submitted with its proposal a full time employee staffing plan. If Concessionaire changes its full time employee staffing plan, Concessionaire shall immediately provide a copy of the new staffing plan to the County.

I. Concessionaire Retaliation Prohibited.

Concessionaire and/or its employees shall not take any adverse action which would result in the loss of any benefit of employment, any contract benefit, or any statutory benefit for any employee, person or entity who has reported a violation of the Program to the County or to any other public or private agency, entity or person. A violation of the provisions of this paragraph may constitute a material breach of the contract. In the event of such material breach, County may, in its sole discretion, terminate the contract.

J. Concessionaire Standards.

During the term of the contract, Concessionaire shall maintain business stability, integrity in employee relations and the financial ability to pay a living wage to its employees. If requested to do so by the County, Concessionaire shall demonstrate to the satisfaction of the County that Concessionaire is complying with this requirement.

K. Employee Retention Rights.

Note: This paragraph applies only if the contract involves the provision of services that were previously provided by a Concessionaire under a predecessor Proposition A contract or a predecessor cafeteria services contract, which predecessor contract was terminated by the County prior to its expiration.

1. Concessionaire shall offer employment to all retention employees who are qualified for such jobs. A “retention employee” is an individual:

a. Who is not an exempt employee under the minimum wage and maximum hour exemptions defined in the federal Fair Labor Standards Act; and

b. Who has been employed by a Concessionaire under a predecessor Proposition A contract or a predecessor cafeteria services contract with the County for at least six months prior to the date of this new contract, which predecessor contract was terminated by the County prior to its expiration; and

c. Who is or will be terminated from his or her employment as a result of the County entering into this new contract.

2. Concessionaire is not required to hire a retention employee who:

a. Has been convicted of a crime related to the job or his or her performance; or

b. Fails to meet any other County requirement for employees of a Concessionaire.

3. Concessionaire shall not terminate a retention employee for the first 90 days of employment under the contract, except for cause. Thereafter, Concessionaire may retain a retention employee on the same terms and conditions as Concessionaire’s other employees.

L. Neutrality in Labor Relations.

Concessionaire shall not use any consideration received under the contract to hinder, or to further, organization of, or collective bargaining activities by or on behalf of Concessionaire's employees, except that this restriction shall not apply to any expenditure made in the course of good faith collective bargaining, or to any expenditure pursuant to obligations incurred under a bona fide collective bargaining agreement, or which would otherwise be permitted under the provisions of the National Labor Relations Act.

41. COMPLIANCE WITH JURY SERVICE PROGRAM

A. Jury Service Program

This Contract is subject to the provisions of the County's ordinance entitled Contractor Employee Jury Service ("Jury Service Program") as codified in Sections 2.203.010 through 2.203.090 of the Los Angeles County Code.

B. Written Employee Jury Service Policy

1. Unless Concessionaire has demonstrated to the County's satisfaction either that Concessionaire is not a "Contractor" as defined under the Jury Service Program (Section 2.203.020 of the County Code) or that Concessionaire qualifies for an exception to the Jury Service Program (Section 2.203.070 of the County Code), Concessionaire shall have and adhere to a written policy that provides that its Employees shall receive from the Concessionaire, on an annual basis, no less than five days of regular pay for actual jury service. The policy may provide that Employees deposit any fees received for such jury service with the Concessionaire or that the Concessionaire deduct from the Employee's regular pay the fees received for jury service.

2. For purposes of this Section, "Concessionaire" means a person, partnership, corporation or other entity which has a contract with the County or a subcontract with a County contractor and has received or will receive an aggregate sum of \$50,000 or more in any 12-month period under one or more County contracts or subcontracts. "Employee" means any California resident who is a full time employee of Concessionaire. "Full time" means 40 hours or more worked per week, or a lesser number of hours if: 1) the lesser number is a recognized industry standard as determined by the County, or 2) Concessionaire has a long-standing practice that defines the lesser number of hours as full-time. Full-time employees providing short-term, temporary services of 90 days or less within a 12-month period are not considered full-time for purposes of the Jury Service Program. If Concessionaire uses any subcontractor to perform services for the County under the Contract, the subcontractor shall also be subject to the provisions of this Section. The provisions of this Section shall be inserted into any such subcontract agreement and a copy of the Jury Service Program shall be attached to the agreement.

3. If Concessionaire is not required to comply with the Jury Service Program when the Contract commences, Concessionaire shall have a continuing obligation to review the applicability of its "exception status" from the Jury Service Program, and Concessionaire shall immediately notify County if Concessionaire at any time either comes within the Jury Service Program's definition of "Concessionaire" or if Concessionaire no longer qualifies for an exception to the Program. In either event, Concessionaire shall immediately implement a written policy consistent with the Jury Service Program. The County may also require, at any time during the Contract and at its sole discretion, that Concessionaire demonstrate to the County's satisfaction that Concessionaire either continues to remain outside of the Jury Service Program's definition of "Concessionaire" and/or that Concessionaire continues to qualify for an exception to the Program.

4. Concessionaire's violation of this Section of the contract may constitute a material breach of the Contract. In the event of such material breach, County may, in its sole discretion, terminate the Contract and/or bar Concessionaire from the award of future County contracts for a period of time consistent with the seriousness of the breach. Concessionaire shall properly prepare and execute Exhibit "C" which is attached hereto.

42. ENTIRE AGREEMENT

42.01 This document and the exhibits attached hereto, constitute the entire agreement between the County and Concessionaire for the food service concession stated herein. All other agreement, promises and representations with respect thereto, other than contained herein, are expressly revoked, as it has been the intention of the parties to provide for a complete integration within the provisions of this document, the terms, conditions, promises and covenants relating to the concession and the premises to be used in the conduct thereof. The unenforceability, invalidity, or illegality of any provision of this agreement shall not render the other provisions thereof unenforceable, invalid or illegal.

42.02 This document may be modified only upon written agreement between the parties hereto. Any such modification shall not be effective unless and until executed by Concessionaire and in the case of County until approved by the Chief Administrative Office.

43. FORCE MAJEURE

In the event that either party is delayed or hindered from the performance of any act required hereunder by reason of strikes, lock-outs, labor troubles, inability to procure materials not related to the price thereof, failure of power, restrictive governmental laws and regulations, riots, insurrection, war or other reasons of a like nature beyond the control of such party, then performance of such acts shall be excused for the period of the delay, and the period for the performance of any such act shall be extended for a period equivalent to the period of such delay.

IN WITNESS WHEREOF, the Concessionaire has executed this Concession Agreement or caused it to be duly executed, and the County of Los Angeles by order of its Board of Supervisors, has caused this Concession Agreement to be executed on its behalf by the Chairman of said Board and attested by the Clerk thereof the day, month, and year first above written.

CONCESSIONAIRE:

MORRISON MANAGEMENT
SPECIALISTS, INC.

By _____
Ed Clark

COUNTY OF LOS ANGELES

By _____
Chairman, Board of Supervisors

ATTEST:

VIOLET VARONA-LUKENS
Executive Officer-Clerk of
the Board of Supervisors

By _____

APPROVED AS TO FORM:

LLOYD W. PELLMAN
County Counsel

By _____
Deputy: Francis E. Scott

**COUNTY OF LOS ANGELES CONTRACTOR EMPLOYEE JURY SERVICE PROGRAM
APPLICATION FOR EXCEPTION AND CERTIFICATION FORM**

The County's solicitation for this contract/purchase order (Request for Proposal or Invitation for Bid) is subject to the County of Los Angeles Contractor Employee Jury Service Program (Program) (Los Angeles County Code, Chapter 2.203). All bidders or proposers, whether a contractor or subcontractor, must complete this form to either 1) request an exception from the Program requirements or 2) certify compliance. Upon review of the submitted form, the County department will determine, in its sole discretion, whether the bidder or proposer is excepted from the Program.

Company Name:		
Company Address:		
City:	State:	Zip Code:
Telephone Number:		
Solicitation For (Type of Goods or Services):		

If you believe the Jury Service Program does not apply to your business, check the appropriate box in Part I (attach documentation to support your claim); or, complete Part II to certify compliance with the Program. Whether you complete Part I or Part II, please sign and date this form below.

Part I: Jury Service Program Is Not Applicable to My Business

- ☐ My business does not meet the definition of "contractor," as defined in the Program as it has not received an aggregate sum of \$50,000 or more in any 12-month period under one or more County contracts or subcontracts (this exception is not available if the contract/purchase order itself will exceed \$50,000). I understand that the exception will be lost and I must comply with the Program if my revenues from the County exceed an aggregate sum of \$50,000 in any 12-month period.
- ☐ My business is a small business as defined in the Program. It 1) has ten or fewer employees; and, 2) has annual gross revenues in the preceding twelve months which, if added to the annual amount of this contract, are \$500,000 or less; and, 3) is not an affiliate or subsidiary of a business dominant in its field of operation, as defined below. I understand that the exemption will be lost and I must comply with the Program if the number of employees in my business and my gross annual revenues exceed the above limits.

"Dominant in its field of operation" means having more than ten employees, including full-time and part-time employees, and annual gross revenues in the preceding twelve months, which, if added to the annual amount of the contract awarded, exceed \$500,000.

"Affiliate or subsidiary of a business dominant in its field of operation" means a business which is at least 20 percent owned by a business dominant in its field of operation, or by partners, officers, directors, majority stockholders, or their equivalent, of a business dominant in that field of operation.

- ☐ My business is subject to a Collective Bargaining Agreement (attach agreement) that expressly provides that it supersedes all provisions of the Program.

OR

Part II - Certification of Compliance

- ☐ My business has and adheres to a written policy that provides, on an annual basis, no less than five days of regular pay for actual jury service for full-time employees of the business who are also California residents, or my company will have and adhere to such a policy prior to award of the contract.

I declare under penalty of perjury under the laws of the State of California that the information stated above is true and correct.

Print Name:	Title:
Signature:	Date:

CONCESSION AGREEMENT
BETWEEN
COUNTY OF LOS ANGELES
AND
MORRISON MANAGEMENT
SPECIALISTS, INC.

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THIS CONCESSION AGREEMENT, made and entered into this _____

day of _____, 2002

BY AND BETWEEN

COUNTY OF LOS ANGELES, a body corporate and politic, hereinafter referred to as "County",

AND

MORRISON MANAGEMENT SPECIALISTS, INC., referred to as "Concessionaire",

WITNESSETH:

WHEREAS, County owns the LAC+USC Medical Center's Women and Children's Hospital located at 1240 North Mission Road, Los Angeles, CA.

WHEREAS, The Board of Supervisors is authorized by the provisions of Government Code 25536 to grant concessions therein that are consistent with the government purposes served thereby; and

WHEREAS, a concession for the sale of food and beverage is consistent with said purposes;

WHEREAS, Concessionaire is willing to exercise the grant of such a concession in accordance with the terms and conditions prescribed therefor;

NOW, THEREFORE, in consideration of the mutual promises, covenants and conditions set forth herein, the parties and each of them do agree as follows:

1. CONCESSION GRANTED

1.01 Concessionaire is hereby authorized to sell food, beverages and sundry items within the confines of the LAC+USC Medical Center's Women and Children's Hospital Cafeteria.

1.02 Concessionaire understands and agrees that the concession is by license and not lease; confers only permission to occupy and use the premises described for concession purposes in accordance with the terms and conditions hereinafter specified without granting or reserving to Concessionaire any interest or estate therein; the expenditure of capital and/or labor in the course of use and occupancy thereunder shall not confer any interest or estate in the premises by virtue of said use, occupancy and/or expenditure of money thereon; and it is the intention of the parties to limit the right of user granted herein to a personal, revocable and unassignable privilege of use in the premises for the concession granted herein.

2. CONCESSION PREMISES

2.01 The concession shall be conducted from the approximately 4,190 square feet existing cafeteria located on the ground floor of the LAC+USC Medical Center's Women and Children's Hospital Cafeteria to be refurbished pursuant to Paragraph 10 (Required Construction).

2.02 The concession premises shall be used only and exclusively for concession purposes, and such other purposes as are related thereto provided express approval therefor is granted by the Chief Administrative Officer and for no other purposes whatsoever.

2.03 Concessionaire acknowledges personal inspection of the concession premises and the surrounding area and evaluation of the extent to which the physical condition thereof will affect the concession. Concessionaire accepts the concession premises in their present physical condition, and agrees to make no demands upon County for any improvements or alteration thereof.

2.04 Concessionaire may make or construct or cause to be made or constructed additions, alterations, repairs or changes in the concession premises in addition to those required under Section 10, at Concessionaire's expense, provided written approval thereof is first obtained from the Administrative Office; permits are obtained therefor as hereafter required, and there is compliance with such terms and conditions relating thereto as may be imposed thereon by the Chief Administrative Office.

2.05 Concessionaire hereby acknowledges the title of County or any other public agencies having jurisdiction thereover, in and to the concession premises and the improvements located thereon, and covenants and agrees never to assail, contest or resist said title.

2.06 Ownership of all improvements constructed by Concessionaire upon the concession premises and all equipment, alterations, additions or betterments thereto shall remain in Concessionaire until termination of this agreement. Upon termination, whether by expiration of the term, cancellation for breach as determined by County or forfeiture, ownership thereto shall vest in County, without compensation being paid therefor, and such improvements and all installed equipment stated in the attached "Recommended Equipment Alterations, Improvement and Repairs Estimated Costs" attached hereto and incorporated herein and marked as Exhibit "A", shall be surrendered with the concession premises, unless demand for their removal shall be given by the Chief Administrative Office at least ninety (90) days prior to the date of termination. Should Concessionaire fail to remove said improvements, and/or equipment, the same may be sold, removed or demolished, and Concessionaire shall reimburse County for any cost or expense in connection therewith in excess of any consideration received by County as a result of said sale, removal or demolition.

3. TERM

3.01 The term of the concession shall be for a period of five years commencing August 24, 2002 upon approval of the contract by the County and terminating five years thereafter, unless sooner terminated or modified as herein provided.

3.02 Notwithstanding the provision of paragraph 19, this concession agreement may be terminated at the County's convenience and without any reason upon serving a 60 day written notice to the Concessionaire.

3.03 In the event Concessionaire holds over beyond the term herein provided with the consent, express or implied of County, such holding shall be from month to month only, subject to the conditions of this agreement, shall not be a renewal, and shall be at the monthly compensation provided herein.

4. RENT

4.01 Concessionaire shall pay rent to the County in the amount of 4% of monthly gross receipts, less applicable sales tax, on all sales totaling up to \$14,398 monthly and 2% of all gross receipts, less applicable sales tax, over and above that amount monthly.

4.02 Payment shall be made by check or draft issued and payable to the Los Angeles County Auditor-Controller on or before the 5th day of the calendar month of the term provided herein. Payment shall be mailed or otherwise delivered to the Franchise/Concession Section, Auditor Controller, County of Los Angeles, 500 West Temple St., Room 514, Los Angeles, California 90012, with a copy of such check to be mailed to Chief Administrative Office, Real Estate Division, Property Management Section, 222 South Hill Street, 3rd Floor, Los Angeles, California 90012.

4.03 In the event payment is not made on or before said date, a penalty of \$100 per month plus interest accruing at 1% per month shall be added to the unpaid amount.

4.04 The late payment charge may be waived whenever the Chief Administrative Officer, upon appeal of the Concessionaire, finds late payment excusable by reason of extenuating circumstances.

4.05 Any late payment charge shall be due and payable within the next rental payment period. County shall not be obligated at any time to notify Concessionaire of late payment charges or the accumulation thereof.

5. ACCOUNTING RECORDS

5.01 Concessionaire shall be required to maintain a method of accounting which shall, to the satisfaction of the Auditor-Controller, correctly and accurately reflect the gross receipts and disbursements of Concessionaire in connection with the concession. The method of accounting, including bank accounts established for the concession, shall be separate from the accounting system used for any other business operated by Concessionaire or for recording Concessionaire's personal financial affairs. Such method shall include the keeping of the following documents:

- a. Regular books of accounting such as general ledgers.
- b. Journals, including any supporting and underlying documents such as vouchers, checks, tickets, bank statements, etc.
- c. State and Federal income tax returns and sales tax returns and checks and other documents providing payment of sum shown which shall be kept in confidence by the County.
- d. Cash register tapes (daily tapes may be separated) but shall be retained so that from day to day the sales can be identified.
- e. Any other accounting records that the Auditor-Controller deems necessary for proper reporting of receipts.

5.02 All sales shall be recorded by means of cash registers which publicly display the amount of each sale and automatically issue a customer's receipt or certify the amount recorded in a sales slip. Said cash registers shall, in all cases, have locked-in sales totals and transaction counters which are constantly accumulating and which cannot, in either case, be reset, and in addition thereto, a tape located within the register on which transaction number and sales details are imprinted. Beginning and ending cash registers readings shall be made a matter of daily record. If requested by the County, the County shall be furnished and retain all the reset keys for the cash registers.

5.03 All documents, books and accounting records shall be open for inspection and reinspection at any reasonable time during the term of this agreement. In addition, the Auditor-Controller may from time to time conduct an audit and re-audit of the books and business conducted by Concessionaire and observe the operation of the business so that accuracy of the above records can be confirmed. If the report of gross sales made by Concessionaire to the Auditor-Controller should be found to be less than the amount of gross sales disclosed by such audit and observation, Concessionaire shall pay the delinquent commission amount within 30 days of billing therefor. If the additional gross receipts exceeds 2 percent and there is no reasonable basis for the failure to report and pay thereon, Concessionaire shall also pay the cost of the audit and late charges heretofore provided for delinquent payments.

All information obtained in connection with the Auditor-Controller's inspection of records or audit shall be treated as confidential information and except from public disclosure thereof. County shall not be liable or responsible for the disclosure of any such records including those marked trade secret, confidential or proprietary, if such disclosure is deemed to be required by law or an order of Court.

5.04 Concessionaire shall furnish the Auditor-Controller with a monthly gross receipts report showing the amount payable therefrom to the County. A copy of the monthly sales report shall be mailed to Chief Administrative Office, Real Estate Division, 222 South Hill Street, 3rd Floor, Los Angeles, California 90012, Attention: Property Management Section. In addition thereto, Concessionaire shall furnish the Auditor-Controller with an annual Profit and Loss statement and a balance sheet prepared by a person on a form acceptable to said officer. The annual financial statements shall be submitted within 60 days of the close of an agreement year. Said closing date shall be determined by reference to the date for commencement of the term herein provided.

5.05 All such accounting records, including, but not limited to, all financial records, journals, vouchers, checks, State and Federal income tax returns and sales tax returns, cash register tapes, proprietary data and information, shall be kept and maintained by Concessionaire and shall be made available to County during the term of this agreement and for a period of four years thereafter unless County's written permission is given to dispose of any such material prior to such time. All such material shall be maintained by Concessionaire at a location in Los Angeles County, provided that if any such material is located outside the Los Angeles County, then, at County's option, Concessionaire shall pay County for travel, per diem, and other costs incurred by County to examine, audit, excerpt, copy or transcribe such material at such other location.

6. OPERATING RESPONSIBILITIES

6.01 Compliance with Law

Concessionaire shall conform to and abide by all municipal and County ordinances, State and Federal laws and regulations, insofar as the same or any of them are applicable; and where permits or licenses are required for the concession or construction authorized herein, the same must be first obtained from the regulatory agency having jurisdiction thereover.

6.02 Compliance with Rules and Regulations

Concessionaire shall conform to and abide by all rules and regulations of the Board of Supervisors, Chief Administrative Officer, County Departments and other governmental regulatory agencies insofar as the same or any of them are applicable.

6.03 **Disorderly Persons**

Concessionaire agrees not to allow any loud, boisterous or disorderly persons to loiter about the concession premises.

6.04 **Illegal Activity**

Concessionaire shall not permit any illegal activities to be conducted upon the concession premises.

6.05 **Signs**

Concessionaire shall not post signs or advertising matter upon the concession premises or improvements thereon, unless prior approval therefor is first obtained from the Chief Administrative Officer.

6.06 **Noninterference**

Concessionaire shall not interfere with the public use of the County building where the cafeteria is located.

6.07 **Concession Staff**

6.07.01 Concessionaire shall maintain an adequate and proper staff and shall make a reasonable effort to retain present employees. The Chief Administrative Officer may, at any time, give Concessionaire written notice to the fact that the conduct or actions of a designated employee of Concessionaire is, in the reasonable belief of the Chief Administrative Officer, detrimental to the interests of the public patronizing the concession premises. Concessionaire will meet with representatives of the Chief Administrative Officer to consider the appropriate course of action with respect to such matter and Concessionaire shall take reasonable measures under the circumstances to assure the Chief Administrative Officer that the conduct and activities of Concessionaire's employee will not be detrimental to the interest of the public patronizing the concession premises.

6.07.02 Concessionaire shall designate one member of the staff as the Concession Manager with whom County may deal on a daily basis. Any other persons selected by Concessionaire as Concession Manager shall be skilled in the management of business similar to the concessionaire and shall be subject to approval by the Chief Administrative Officer. The Concession manager shall be fully acquainted with the concession, familiar with the terms and conditions prescribed therefore by this agreement; and authorized to act in the day-to-day operation thereof. Concessionaire and/or Manager shall attend any required meetings.

6.07.03 Concessionaire warrants that it fully complies with all statutes, requirements and laws regarding the employment eligibility of aliens and other, and that its employees performing services hereunder meet the citizenship or alien status requirements contained in federal and state statutes and regulations including, but not limited to, the Immigration Reform and Control Act of 1986 (P.L. 99-603). Concessionaire shall obtain from all covered employees eligibility status required by federal statutes and regulations as they currently exist and as they may be hereafter amended. Concessionaire shall retain such documentation for all covered employees for the period prescribed by law. Concessionaire shall indemnify, defend, and hold harmless the County, its officers and employees from employer sanctions and any other liability which may be assessed against Concessionaire or the County, or both in connection with any alleged violation of federal statutes or regulations pertaining to the eligibility for employment of persons performing services under this agreement.

6.07.04 All persons employed by Concessionaire under this agreement shall be competent, trustworthy and well qualified for their work. Concessionaire shall submit to the Chief Administrative Officer a roster of employees who are required to enter County facilities. The roster shall be kept current. Concessionaire and his/her employees will be required to provide picture identification for entry into the facility and to comply with all applicable regulations of the County. Concessionaire shall provide uniforms for its staff at its own expense and require the staff to wear the uniforms while working at the premises.

6.07.05 Concessionaire shall file with the Chief Administrative Officer a certificate for each member of the concession staff showing that within the last two years such person has been examined and has been found to be free of communicable tuberculosis. Certificate means a document signed by the examining physician and surgeon who is licensed under Chapter 5 (commencing with Section 2000), Division 2 of the State Business and Professions Code or a notice from a public health agency or unit of the Tuberculosis Association which indicated freedoms from active tuberculosis. In addition, Concessionaire shall provide annual medical certifications for each staff member at its expense.

6.08 Days and Hours of Operation

The minimum hours of operation shall be from 6:00 AM to 3:00 PM Monday through Saturday excepting holidays. In addition, thereto, Concessionaire shall keep the concession open for service to employees at such other times as may be requested by the Chief Administrative Officer. In the event of emergencies, Concessionaire shall be required to keep the concession open and provide food service.

6.09. Menu Price Schedules

Concessionaire shall at all times maintain a complete list or schedule of the prices charged for all goods or services, or combinations thereof, supplied to the public on or from the concession premises. Said prices shall be fair and reasonable based upon the following considerations: that the concession is intended to serve the needs of the public for the goods and/or services supplied at a fair and reasonable cost; comparability with prices charged for similar goods and/or services supplied in the Los Angeles Metropolitan Area; and reasonableness of profit margin in view of the cost of providing same in compliance with the obligations assumed in this agreement. In the event the Chief Administrative Office notifies Concessionaire that prices being charged are not fair and reasonable, Concessionaire shall have the right to confer with the Chief Administrative Office and justify said prices. Following reasonable conference and consultation thereon, Concessionaire shall make such price adjustments as may be ordered by the Chief Administrative Office. Concessionaire may appeal the determination of the Chief Administrative Office to the Board of Supervisors, whose decision thereon shall be final and conclusive. However, Concessionaire shall comply with the ordered price adjustment pending the appeal and final ruling thereon by the Board of Supervisors.

6.10 Menu

Concessionaire's proposed menu attached hereto and marked as Exhibit "B" is to be prepared and submitted for the County's final approval and shall include prices, a description of each item, the weight of each portion and the government grades for its component items. This is also required of any future proposed menus or changes. No menu shall misrepresent quality, grade, or weight of any item. If Concessionaire is unable to determine the weight of a given item, it may indicate that its weight will not be less than an amount which Concessionaire shall state. For a product which changes weight during cooking, Concessionaire shall indicate whether the weight indicated is that product's uncooked weight. If Concessionaire purchases various government grades of a given item, it shall state the lowest grade which it purchases.

6.11 Publicly Displayed Menu

Prices for each item sold in the facility shall be conspicuously displayed to the satisfaction of the Chief Administrative Officer as to information given, design, type, size, style, color, and all other specifics. Said prices shall not exceed the approved prices for said items. If, in addition to any publicly displayed menu, Concessionaire provides individual menus for customers, or places price markers on item displays, said prices shall not exceed the approved prices for said items.

6.12 Amendments May Be Required

The Chief Administrative Officer may re-evaluate the selection of menu and other items during the term. The Chief Administrative Officer's determination that the selection offered is inadequate, or that any price is excessive, or that the quality or quantity of any item is deficient, shall be conclusive. Concessionaire may meet and confer with the Chief Administrative Officer regarding such matters.

6.13 Removal of Objectionable Goods and Services

Concessionaire shall immediately remove or withdraw from sale any goods or services which may be found objectionable to employees, public welfare or by the Chief Administrative Officer, following receipt of written notification therefor.

6.14 Sanitation

No offensive matter or refuse or substance containing an unnecessary, unreasonable or unlawful fire hazard or material detrimental to the public health, shall be permitted or remain on the concession premises, and Concessionaire shall prevent any accumulation thereof from occurring. Concessionaire shall, at all times keep the kitchen, dish room, serving line, equipment and materials located thereon sanitary and free from rubbish, refuse, food scraps, garbage, dust, dirt, flies and other insects, rodents and vermin. All apparatus, appliances, utensils, devices, equipment and piping used by Concessionaire shall be constructed so as to facilitate the cleaning and inspection thereof and shall be thoroughly and properly cleaned after each period of use with hot water and suitable soap, detergents and sterilizing agents and shall be rinsed by flushing with hot water. All trays, dishes, china, crockery, glassware, cutlery and other equipment of such type shall be cleaned by Concessionaire immediately after using the same and shall be kept clean until reused. Floors shall be cleaned by Concessionaire of all food and beverage spilled thereon. Concessionaire shall provide and pay for regular fumigation service. In addition, Concessionaire shall at all times maintain an "A" rating as determined by the Los Angeles County Health Department.

The foregoing notwithstanding, County shall assist in maintaining the sanitation required herein by providing for the collection of all refuse and payment of all charges for the removal thereon.

6.15 Security Devices

Concessionaire may provide any legal devices, installations, or equipment designed for the purpose of protecting the concession premises from theft, burglary or vandalism, provided written approval for installation is first obtained from the Chief Administrative Officer. All purchases and installations thereof shall be at Concessionaire's expense.

6.16 Safety

Concessionaire shall immediately correct any unsafe condition at the concession premises, as well as any unsafe practices occurring thereon. Concessionaire shall obtain emergency medical care for any member of the public who is in need thereof, because of illness or injury occurring on the concession premises. Concessionaire shall cooperate fully with County in the investigation of any accidental injury or death occurring on the concession premises, including a prompt report thereof to the Chief Administrative Officer.

6.17 Trade Fixtures

Concessionaire shall provide all equipment listed in the Section 10 Exhibits, cash registers, and anything else necessary for the satisfactory operation of the concession, and shall repair, maintain and replace said equipment, as is reasonably necessary. Any additional supplies needed shall be provided by Concessionaire including expendable items such as flatware, dishes, trays, glasses, cooking utensils, employee uniforms, condiment dispensers, and decorative items required for the proper operation of the concession as determined by the Chief Administrative Office. Ownership of all improvements and equipment, except expendable items, shall vest in County at the end of the term of the contract.

6.18 Habitation

The concession premises shall not be used for human habitation.

6.19 Prevailing Wages

To the extent that this concession involves the full-time employment by Concessionaire of dishwashers, cooks, waiters, waitresses, busboys, servers and cashiers necessary for the proper performances by Concessionaire of the obligations imposed by this concession agreement, Concessionaire agrees that the per diem wages paid to paid personnel shall not be less than the prevailing rate of per diem wages in the locality in which this concession is located for each classification or type of employee provided at least 50 percent of the employees in the classification in the locality are covered by a collective bargaining agreements. In the event no collective bargaining agreements exist in the locality in which this concession is located, the prevailing wage shall be determined by a survey of job positions comparable to those in the employ of the Concessionaire, which survey shall be undertaken by the Chief Administrative Officer or his designee. As used in this paragraph, the term locality shall be deemed to mean the greater Los Angeles area. As used in this paragraph, the term per diem wages shall be deemed to include employer payments of health and welfare, pension, vacation, paid holidays and similar purposes. Concessionaire shall keep an accurate record showing the per diem wage to each classification of employee personnel on the premises and said records shall be open

to inspection at all reasonable hours by agents of the County. This requirement is applicable only to Concessionaire exempted from the provisions of the Living Wage Ordinance.

6.20 Paid Time Off Benefits

Concessionaire shall provide a minimum of two weeks paid time off benefits for each full-time employee. Full-time employees are those who work a minimum of 35 hours per week for 50 weeks.

6.21 Merchandise

Concessionaire shall provide and maintain the necessary inventory of concession merchandise required to meet the needs of the public therefore. All food and beverages sold or kept for sale by Concessionaire shall be first class in quality, wholesome and pure, and shall conform to federal, state and County food laws, ordinances and regulations in all respects. No adulterated, misbranded or impure articles shall be sold or kept for sale by Concessionaire, and all merchandise kept on hand by Concessionaire shall be stored and handled with due regard for sanitation. In the event food is below first class, the Chief Administrative Office shall have the right to order the improvement of the quality of any food kept or offered for sale.

6.22 Additional Concessionaire Responsibilities

The Concessionaire further agrees to the following:

1. Provide a premium coffee choice(s).
2. Healthy food choice selections daily.
3. Grab and go food selections.
4. Scattered food service stations to improve traffic flow.
5. Professional signage.
6. Provide a suggestion box.
7. Post menu on County web site.
8. Post the weekly menu and distribute copies to key staff as directed.
9. Provide a Hispanic and Asian food choice daily.
10. Provide theme meals on holidays and occasional promotions.
11. Provide a minimum 5 week menu cycle.
12. Provide discounted meal choices for employees.
13. Provide cabinet covered trash receptacles.

7. MAINTENANCE AND REPAIRS

7.01 Concessionaire shall be responsible for maintaining the concession premises in good and substantial repair and condition, and in compliance therewith shall perform all repairs to or replacement of all improvements and equipment including those appliances, furniture, fixtures and equipment owned by Concessionaire. In addition to this general requirement, Concessionaire shall perform any and all repairs required for the maintenance thereof in compliance with all laws applicable thereto, replace broken window glass, repair/replace exposed plumbing and electrical and lighting fixtures, clearing of clogged waste lines and replacement of broken or damaged doors. The County is to maintain and repair central hot water, heating and air conditioning systems, unexposed electrical and plumbing and replace interior light bulbs and fluorescent tubes. If the drains require cleaning more than once per month and it is determined by the County that is through no fault of the Concessionaire, the County will be responsible for the additional cleaning. The foregoing notwithstanding, Concessionaire shall be responsible for repair and/or replacement of all improvements and equipment thereon damaged and/or destroyed by the negligent and/or willful acts and omissions of the employees, agents, suppliers and/or contractors of Concessionaire. All maintenance shall be commenced within thirty (30) days of the need therefor and diligently prosecuted to completion of same, except where the state of disrepair is such that an emergency or hazard is created thereby in which event there shall be an immediate correction thereof. Either party may cure the default of the other party hereto with respect to the maintenance obligations assumed herein, and upon performance thereof shall acquire a right of reimbursement therefrom for the actual costs of same, including, but not limited to, the cost of labor, materials and equipment furnished in the correction thereof, provided there is prior mutual agreement between the Chief Administrative Office and Concessionaire upon the nature and scope of the work to be performed and the costs to be incurred therein.

8. DEMAND FOR REIMBURSEMENT

8.01 Any demand of County under section 7 for reimbursement hereunder shall be satisfied by Concessionaire through payment of the sums deposited with County as security for faithful performance, or pro-rated monthly installment payments over the remaining term of the agreement, commencing with the month next succeeding the date of completion of the maintenance performed. Any demand of Concessionaire for reimbursement hereunder shall be satisfied by County through a credit against the monthly rental obligation of Concessionaire, commencing with the month next succeeding the date of completion of the maintenance performed and for each and every other month of the remaining term of the agreement, until a total credit has been provided up to the actual costs of cure or the rental reserved over said remaining term. County and Concessionaire waive all rights to payment on their respective rights to reimbursement for the actual costs of cure of the default of the other with respect to the maintenance obligations assumed herein, except in the manner and amounts heretofore provided.

9. UTILITIES

9.01 The County shall provide and pay for all necessary utilities excluding telephones. The telephone number shall be placed in the name of the Concessionaire and shall not be transferable to any other location. Concessionaire waives any and all claims against County for compensation for loss of damage caused by a defect, deficiency or impairment of any utility system, water supply system, drainage system, waste system, heating or gas system, electrical apparatus or wires serving the concession premises.

10. REQUIRED CONSTRUCTION

10.01 Concessionaire shall refurbish the cafeteria upon the concession premises in accordance with the floor plan that is to be submitted and approved by the Chief Administrative Office. Concessionaire is to furnish equipment in an amount not less than \$18,450 as per the "Recommended Equipment Alterations, Improvement and Repairs Estimated Costs" attached hereto and incorporated herein and marked as Exhibit : "A". Title to the equipment, furnishings and remodeled areas and items will vest with the County at the termination, surrender or vacation of the concession granted, unless the County makes demand for its removal 90 days thereto. Any additional costs shall be borne by the Concessionaire. Prior to commencement of construction, Concessionaire shall obtain approval of all plans and specifications for any improvements to be constructed upon the demised premises from the County Building and Safety, Fire Department, Chief Administrative Officer, and other regulatory agencies. No modification of said plans, specifications or improvements shall be made by Concessionaire without approval thereof by these agencies. Concessionaire further agrees that final work is subject to the approval of the Chief Administrative Officer in addition to the other regulatory agencies having proper jurisdiction.

10.02 Accordingly, Concessionaire shall within 21 days of the commencement of the term provided herein, cause preliminary plans and specifications to be prepared and submitted for approval of the Chief Administration Officer; and within 14 days following the approval thereof, cause final plans and specifications and full cost estimates to be prepared and submitted for approval by said officer. Upon approval thereof said final plans and specifications shall be incorporated herein by this reference.

10.03 Concessionaire shall, within 7 days after approval of the final plans and specifications as provided herein, and upon County's posting of the construction site with a notice of non-responsibility prior to commencement of construction of the above-described improvements, diligently prosecute and complete the same.

10.04 No modification of said final plans and specifications or of said improvements shall be made by Concessionaire without approval therefore by the Chief Administrative Officer.

10.05 Concessionaire agrees that County may have on the site at any time during the construction period an inspector who shall have the right of access to the concession premises and the construction work. Concessionaire shall, at the commencement of the construction work, notify the Chief Administrative Officer in writing of the identity, place of business and telephone number of Concessionaire's on-the-job representative. Said representative shall be Concessionaire's primary consultant for the inspector of the County.

10.06 The parties agree that any delay in the construction due to fire, earthquake, war, labor dispute or other events beyond the control of concessionaire shall extend the time in which said construction must be completed by the length of time of such delay.

10.07 Concessionaire shall construct, perform complete and maintain all construction covered by this agreement in a good and workmanlike manner and with high quality material, and shall furnish all tools, equipment, labor and material necessary to perform and complete the same, and hereby expressly warrants that all said materials and workmanship will be free from defects. Initial installations with respect to electrical, gas and plumbing will be approved by appropriate County Building Inspector and provided at Concessionaire's expense.

10.08 It is understood that the construction required herein may, at the discretion of Concessionaire, be constructed in phases, each phase being separated from the other by a period of time to be determine by Concessionaire. However, the nature of the construction to be performed in each phase and the time interval between phases shall be subject to approval by the Chief Administrative Officer. In no event shall the phasing of the construction required extend the completion beyond the date heretofore provided. Should the required construction be phased as herein provided, diligent prosecution thereof shall require commencement of each phase on or before the date selected for commencement thereof. However, all work shall be completed within 120 days of the beginning date of this contract provided County has provided necessary approvals.

10.09 Concessionaire shall coordinate his work schedule with other contractors to avoid disruption and delay in completion of the project. In addition, Concession shall require his architect to oversee the construction to ensure that it is in accordance with approved construction plans for the food service facility.

11. OWNERSHIP OF IMPROVEMENTS

11.01 Concessionaire shall have the rights to the ownership of the improvements installed by Concessionaire as part of this agreement, subject to the conditions provided in Section 11.01 through 11.05.

11.02 Installation Costs

All improvements, decor and equipment shall be furnished, supplied, installed and constructed by Concessionaire at Concessionaire's sole cost and expense.

11.03 Ownership During Term

Federal investment tax credit applicable to concession improvements shall belong to Concessionaire. Title to all furniture, furnishings, removable fixtures and supplies, furnished by the Concessionaire, shall remain their property during the term of the concession granted and until terminated, vacated or surrendered, after which it shall revert to the County.

11.04 Ownership Upon Termination

If the Concessionaire's occupancy is terminated by the County, the County will reimburse Concessionaire for the unamortized net book value of the proposed and completed improvements and approved equipment based upon a five year straight-line depreciation, with no residual value, provided the Concessionaire has obtained all necessary approvals for their construction, upon which its depreciation began, and also provided that architectural and design costs do not exceed 10 percent of the cost of the improvements and all said costs are properly supported and made available for audit. All said costs must be direct costs paid by Concessionaire to independent contractors and suppliers for work actually performed on said premises, materials and equipment furnished or professional services rendered. Costs associated with Concessionaire's employees shall be included in the calculation of these costs. To become reimbursable, the Concessionaire shall, at its expense, provide the County with drawings and paid invoices, showing material and labor costs involved in the construction of the approved structural improvement and approved equipment provided within 90 days of the date that the improvement was put into service. Straight line depreciation shall begin on the first day of the month in which the improvement was placed into service. The Chief Administrative Officer may require Concessionaire to remove any or all of its removable improvements. Title to all improvements to which Concessionaire is reimbursed or which have been depreciated shall thereupon vest in County. In no case shall said amount exceed that which is stated in Section 10.01

11.05 Ownership Upon Expiration

Upon expiration of this agreement, ownership of all improvements and equipment constructed or installed upon the premises shall vest in County, without compensation to Concessionaire.

12. PERFORMANCE BONDS

12.01 During any period of construction hereby required or otherwise authorized, Concessionaire shall provide a performance bond in an amount of not less than 100 percent of the costs for the construction to be performed as estimated by the Chief Administrative Officer, payable to the County of Los Angeles and executed by a corporate surety authorized to conduct business as a surety in the State of California and acceptable to the Chief Administrative Office. The condition of the bond shall be such that if Concessionaire

shall complete the required construction specified herein in accordance with approved plans and specifications and received permanent certificate of occupancy for the building, then surety shall no longer be bound thereon. Said bond shall be maintained in full force and effect by Concessionaire until said works of improvement have been accepted by the Chief Administrative Officer.

12.02 During any period of construction hereby required or otherwise authorized, Concessionaire shall provide a performance bond in an amount of not less than 100 percent of the costs for the construction to be performed as estimated by the Chief Administrative Officer, payable to the County of Los Angeles and executed by a corporate surety authorized to conduct business as a surety in the State of California and acceptable to the Chief Administrative Officer. The payment bond shall inure to the benefit of all claimants as said term is presently defined by Section 3085 of the California Civil Code, or may hereafter be amended, so as to give such claimants a right of action to recover thereon in any suit brought to foreclose the liens provided for in this Title 15 of Part 4, of Division 3 of the California Civil Code or in a separate suit brought upon the bond. The condition of the bond shall be such that if Concessionaire shall well and truly pay, or cause to be paid, all claims for labor, materials, appliances, teams, or power, or either or all, performed, furnished, or constructed in connection with said works of improvements, then surety shall no longer be bound thereon. Said bond shall be maintained in full force and effect until all claims for labor, materials, appliances, teams, or power have been paid, as evidenced by release of mechanic's liens by all claimants.

12.03 The Chief Administrative Officer may accept in lieu of the bonds heretofore described, the performance and payment bonds of corporations duly authorized to issue surety bonds by the State, naming as principal a licensed Contractor employed by Concessionaire to contract works of improvement on the concession premises, provided each bond is in an amount equal to the percentage herein provided above; names County as an additional obligee; contains terms and conditions substantially similar to the requirements heretofore specified; and is satisfactory as to sufficiency and liability of sureties named thereon.

12.04 Concessionaire shall have the option to deposit with the County cash or United States Government securities in all respects satisfactory to the Chief Administrative Officer in lieu of the surety obligations herein required. Said cash or securities shall be deemed deposited with the County to secure full and satisfactory performance of the principal obligations heretofore described for which surety is required, and shall be released upon satisfactory performance thereof, as evidenced by certification of completion by the Chief Administrative Officer and release of mechanic's liens by all claimants. In lieu thereof, Concessionaire may deposit the required amount in a bank whose deposits are insured under the Federal Deposit Insurance Act (12 U.S.C. 1811 et seq.), or a savings and loan whose deposits are insured under Title 4 of the National Housing Act (12 U.S.C. 1724 et seq.), provided the account is made payable to the County on demand and the certificate of deposit is delivered to the Chief Administrative Officer. Concessionaire shall be entitled to all interest on the deposit and the return of the Certificate upon satisfactory performance as heretofore defined.

13. SECURITY DEPOSIT

13.01 Prior to the commencement of this agreement, Concessionaire shall pay to the Auditor-Controller the sum of \$5,000. In lieu thereof, Concessionaire may deposit said amount in a commercial bank or savings and loan association acceptable to the Auditor-Controller, provided that a certificate of deposit is delivered to said Chief Administrative Officer giving County the right to withdraw any or all of said amount during the term of this agreement. Concessionaire shall be entitled to any and all interest accruing from said certificate of deposit.

13.02 Said sum shall serve as security for faithful performance of all covenants, promises and conditions assumed by Concessionaire herein, and may be applied in satisfaction or mitigation of damages arising from a breach thereof, including, but not limited to, delinquent payments, correction of maintenance deficiencies, loss of revenue due to abandonment, vacation or discontinuance of concession operations; discrimination; refunding of deposits for scheduled future events which are required to be canceled due to abandonment, vacation or discontinuance of concession operations, completion of construction and payment of mechanic's liens. Application of amounts on deposit in satisfaction or mitigation of damages shall be without prejudice to the exercise of any other rights provided herein or by law to remedy a breach of this agreement.

13.03 In the event any or all of said amount is applied in satisfaction or mitigation of damages, Concessionaire shall immediately deposit such sums as are necessary to restore the security deposit to the full amount required hereunder.

13.04 Said sum shall be returned to Concessionaire upon termination of this agreement less any amounts that may be withheld therefrom by the County as heretofore provided.

14. HOLD HARMLESS AND INDEMNIFICATION

14.01 Concessionaire shall indemnify, defend and hold harmless County, and its Special Districts, elected and appointed officers, employees, and agents from and against any and all liability, including but not limited to demands, claims, actions, fees, costs, and expenses (including attorney and expert witness fees), arising from or connected with Concessionaire's acts and/or omissions arising from and/or relating to this agreement by Concessionaire or the agents, servants and employees thereof, including but not limited to, damages caused by negligence, creation or maintenance of a dangerous condition of property, breach of express or implied warranty of product, defectiveness of product, or intentional infliction of harm; nonpayment for labor, materials, appliances, teams or power, performed on, or furnished or contributed to the concession premises; infringement of a patent or copyright or disclosure of a trade secret; violation of State and Federal antitrust laws; and violation of Federal and State civil rights laws.

14.02 This promise of indemnity shall extend to all the covered liability, expenses, and claims notwithstanding that the act, omission, or condition giving rise thereto is proximately caused by the active or passive negligence of the County relating to the use of the concession premises, the concession operations or services, acts or omissions relating to the enforcement of this agreement, or a dangerous or defective condition of the concession premises. Concessionaire's duty to indemnify the County shall survive the expiration or other termination of this agreement.

15. INSURANCE

General Insurance Requirements: Without limiting Concessionaire's indemnification of County and during the term of this agreement, Concessionaire shall provide and maintain, and shall require all of its sub-contractors to maintain, the following programs of insurance specified in this agreement. Such insurance shall be primary to and not contributing with any other insurance or self-insurance programs maintained by County, and such coverage shall be provided and maintained at Concessionaire's own expense.

A. **Evidence of Insurance:** Certificate(s) or other evidence of coverage satisfactory to County shall be delivered to the Chief Administrative Office prior to commencing services under this agreement. Such certificates or other evidence shall:

(1) Specifically identify this agreement.

(2) Clearly evidence all coverages required in this agreement.

(3) Contain the express condition that County is to be given written notice by mail at least thirty (30) days in advance of cancellation for all policies evidenced on the certificate of insurance.

(4) Include copies of the additional insured endorsement to the commercial general liability policy, adding the County of Los Angeles, its Special Districts, its officials, officers and employees as insureds for all activities arising from this agreement.

(5) Identify any deductibles or self-insured retentions for County's approval. The County retains the right to require Concessionaire to reduce or eliminate such deductibles or self-insured retentions as they apply to County, or, require Concessionaire to provide a bond guaranteeing payment of all such retained losses and related costs, including, but not limited to, expenses or fees, or both, related to investigations, claims administrations, and legal defense. Such bond shall be executed by a corporate surety licensed to transact business in the State of California.

B. **Insurer Financial Ratings:** Insurance is to be provided by an insurance company acceptable to the County with an A.M. Best rating of not less than A:VII, unless otherwise approved by County.

C. **Failure to Maintain Coverage:** Failure by Concessionaire to maintain the required insurance, or to provide evidence of insurance coverage acceptable to County, shall constitute a material breach of the contract upon which County may immediately terminate or suspend this agreement. County, at its sole option, may obtain damages from Concessionaire resulting from said breach. Alternatively, County may purchase such required insurance coverage, and without further notice to Concessionaire, County may deduct from sums due to Concessionaire any premium costs advanced by County for such insurance.

D. **Notification of Incidents, Claims or Suits:** Concessionaire shall report to County:

(1) any accident or incident relating to services performed under this agreement which involves injury or property damage which may result in the filing of a claim or lawsuit against Concessionaire and/or County. Such report shall be made in writing within 24 hours of occurrence.

(2) any third party claim or lawsuit filed against Concessionaire arising from or related to services performed by Concessionaire under this agreement.

(3) any injury to a Concessionaire employee which occurs on County property. This report shall be submitted on a County "Non-employee Injury Report" to the County contract manager.

(4) any loss, disappearance, destruction, misuse, or theft of any kind whatsoever of County property, monies or securities entrusted to Concessionaire under the terms of this agreement.

E. **Compensation for County Costs:** In the event that Concessionaire fails to comply with any of the indemnification or insurance requirements of this agreement, and such failure to comply results in any costs to County, Concessionaire shall pay full compensation for all costs incurred by County.

F. **Insurance Coverage Requirements for Subcontractors:** Concessionaire shall ensure any and all subcontractors performing services under this agreement meet the insurance requirements of this agreement by either:

(1) Concessionaire providing evidence of insurance covering the activities of subcontractors, or

(2) Concessionaire providing evidence submitted by subcontractors evidencing that subcontractors maintain the required insurance coverage. County retains the right to obtain copies of evidence of subcontractors insurance coverage at any time.

G. **Insurance Coverage Requirements:**

(1) **General Liability** insurance (written on ISO policy form CG 00 01 or its equivalent) with limits of not less than the following:

For Concessionaires Who Will Operate at this single County Location Only, and Have No Operations at Other Non-County Locations:

General Aggregate:	\$2 million
Products/Completed Operations Aggregate:	\$1 million
Personal and Advertising Injury:	\$1 million
Each Occurrence:	\$1 million

For Concessionaires Who Will Operate at this County Location, and Also Operate at One or More Other Locations (County and/or Non-County):

General Aggregate:	\$4 million
Products/Completed Operations Aggregate:	\$2 million
Personal and Advertising Injury:	\$2 million
Each Occurrence:	\$2 million

(2) **Automobile Liability** insurance (written on ISO policy form CA 00 01 or its equivalent) with a limit of liability of not less than \$1 million for each accident. Such insurance shall include coverage for all “owned”, “hired” and “non-owned” vehicles, or coverage for “any auto”.

(3) **Workers Compensation and Employers’ Liability** insurance providing workers compensation benefits, as required by the Labor Code of the State of California or by any other state, and for which Concessionaire is responsible. If Concessionaire’s employees will be engaged in maritime employment, coverage shall provide workers compensation benefits as required by the U.S. Longshore and Harbor Workers’ Compensation Act, Jones Act or any other federal law for which Concessionaire is responsible.

In all cases, the above insurance also shall include Employers’ Liability coverage with limits of not less than the following:

Each Accident:	\$1 million
Disease - policy limit:	\$1 million
Disease - each employee:	\$1 million

(4) **Professional Liability**: Insurance covering liability arising from any error, omission, negligent or wrongful act of the Concessionaire, its officers or employees with limits of not less than \$1 million per occurrence and \$3 million aggregate. The coverage also shall provide an extended two year reporting period commencing upon termination or cancellation of this agreement.

(5) **Property Coverage**: Such insurance shall be endorsed naming the County of Los Angeles as loss payee, provide deductibles of no greater than 5% of the property value, and shall include:

Personal Property: Automobiles and Mobile Equipment - Special form ("all risk") coverage for the actual cash value of County-owned or leased property and Concessionaire's and its employee's owned or leased vehicles and mobile equipment.

Real Property and All Other Personal Property - Special form ("all-risk") coverage for the full replacement value of County-owned or leased property.

16. TAXES AND ASSESSMENTS

16.01 The property conveyed herein shall be subject to possessory interest taxation or assessment thereon, and in the event thereof, Concessionaire shall pay before delinquency all lawful taxes, assessments, fees or charges which at any time may be levied by the State, County, City or any other tax or assessment-levying body upon the concession premises and any improvements located thereon.

16.02 Concessionaire shall also pay all taxes, assessments, fees and charges on goods, merchandise, fixtures, appliances and equipment owned or used thereon.

17. TRANSFERS

17.01 In entering into this agreement, County has specifically bargained for the provision of services and other consideration due it by the named Concessionaire. Accordingly, no transfer of this concession agreement, or any part thereof, is allowed. Any transfer of this agreement, whether by sale, assignment, sublease or otherwise is absolutely prohibited. In the event that Concessionaire attempts to make such a prohibited transfer, the attempted transfer shall be void and of no effect. Furthermore, County may, at its sole option, treat the attempted transfer as a material breach of this agreement and terminate this agreement.

A transfer under this section shall include a change in the beneficial ownership of Concessionaire (other than a transfer to a family trust) of more than fifty percent (50%).

17.02 Each and all of the provisions, agreements, terms, covenants and conditions herein contained to be performed by Concessionaire shall be binding upon any transferee thereof.

17.03 The concession shall not be transferable by testamentary disposition of the state laws of interstate succession, as the rights, privileges, and use conferred by this agreement shall terminate prior to the date for expiration thereof in the event of the death of Concessionaire occurring within the term herein provided. Additionally, neither this agreement nor any interest therein shall be transferable in proceedings in attachment or execution against Concessionaire, or in voluntary or involuntary proceedings in bankruptcy or insolvency or receivership taken by or against Concessionaire, or by any process of law including proceedings under Chapter X or XI of the Bankruptcy Act.

17.04 Shareholders or partners of Concessionaire may transfer, sell, exchange, assign or divest themselves of any interest they may have therein. However, in the event any such sale, transfer, exchange, assignment or divestment is affected in such a way as to give majority control of Concessionaire to any persons, corporations, partnership or legal entity other than the majority controlling interest therein at the time of the execution of this agreement, approval thereof shall be required. Consent to any such transfer shall be refused if the Chief Administrative Officer finds that the transferee is lacking in experience, financial ability to conduct the concession, the proposed sale is an attempt to circumvent section 17.01 above, or for other just cause as determined by the Chief Administrative Officer.

17.05 The prohibition herein contained shall not be applicable with respect to transfers of this agreement arising from the exercise of a power of sale or judicial foreclosure pursuant to the terms and conditions of a hypothecation or mortgage previously approved by the Chief Administrative Officer.

18. NON-DISCRIMINATION

18.01 Concessionaire certifies and agrees that all persons employed thereby or the affiliates, subsidiaries or holding companies thereof are and shall be treated equally without regard to or because of race, religion, ancestry, national origin or sex, and in compliance with all federal and state laws prohibiting discrimination in employment, including, but not limited to, the Federal Civil Rights Act of 1964; the Unruh Civil Rights Act; and Cartwright Act; and the State Fair Employment Practices Act.

18.02 Concessionaire certifies and agrees that sub-concessionaires, bidders, and vendors thereof are and shall be selected without regard to or because of race, religion, ancestry, national origin or sex.

18.03 All employment records shall be open for inspection and reinspection at any reasonable time during the term of this agreement for the purpose of verifying the practice of nondiscrimination by Concessionaire in the areas heretofore described.

18.04 The sum of TWO-THOUSAND DOLLARS (\$2,000.00) is hereby agreed upon as the amount of damages that will be sustained by the County for breach of the promises on nondiscrimination herein contained. Said amount has been set by the parties hereto in recognition of the difficulty in fixing actual damages arising from a breach thereof.

19. CANCELLATION

19.01 Upon the occurrence of any one or more of the events of default hereinafter described, this agreement shall be subject to cancellation. As a condition precedent thereto, the Chief Administrative Officer shall give Concessionaire ten days notice by registered or certified mail of the date set for cancellation thereof; the grounds therefor; and that an opportunity to be heard thereon will be afforded on or before said date, if request is made thereafter.

19.02 Upon cancellation, County shall have the right to take possession of the concession premises, including all improvements, equipment, and inventory located thereon, and use for the purpose of satisfying or mitigating all damages arising from a breach of this agreement.

19.03 Action by County to effectuate a cancellation and forfeiture of possession shall be without prejudice to the exercise of any other rights provided herein or by law to remedy a breach of this agreement.

19.04 Any trustee, beneficiary, mortgage or lender under hypothecation or mortgage previously approved by the Chief Administrative Officer shall have the right at any time during the term of this agreement, to undertake any and all actions that may be required in order to prevent a cancellation of this agreement and a forfeiture of the concession. Accordingly, the Chief Administrative Officer shall send a copy of any intended cancellation of this agreement to any of the aforementioned parties whose security would be affected thereby and upon request thereof for postponement, extend the date set therefor by such time as the Chief Administrative Officer finds reasonable in order to allow said parties to correct the grounds therefor or to provide a new concessionaire under a power of sale or foreclosure contained in the hypothecation or mortgage, who upon transfer thereto shall become responsible for the correction therefor within such time as may be allowed by the Chief Administrative Officer.

20. EVENTS OF DEFAULT

20.01 The abandonment, vacation or discontinuance of operations of the concession premises for more than 48 consecutive hours.

20.02 The failure of Concessionaire to punctually pay or make the payments required hereunder when due, where the delinquency continues beyond ten days following written notice for payment thereof.

20.03 The failure of Concessionaire to operate in the manner required by this agreement, where such failure continues for more than ten days after written notice from the Chief Administrative Officer to correct the conditions therein specified.

20.04 The failure to maintain the concession premises, the equipment and the improvements constructed thereon in the state of repair required hereunder, and in a clean, sanitary, safe and satisfactory condition where such failure continues for more than 10 days after written notice from the Chief Administrative Officer to correct the condition.

20.05 The failure of Concessionaire to keep, perform, and observe all other promises, covenants, conditions and agreements set forth in this agreement, where such failure continues for more than ten days after written notice from the Chief Administrative Officer for correction thereof, provided that where fulfillment of such obligation requires activity over a period of time and Concessionaire shall have commenced to perform whatever may be required to cure the particular default within 10 days after such notice and continues such performance diligently, said time may be waived in the manner and to the extent allowed by the Chief Administrative Officer.

20.06 The filing of a voluntary petition in bankruptcy; the appointment of any receiver of Concessionaire's assets; the making of a general assignment for the benefit of creditors; a petition or answer seeking an arrangement for the reorganization of Concessionaire under any Federal Reorganization Act, including petitions or answers under Chapters X or XI of the Bankruptcy Act; the occurrence of any act which operates to deprive Concessionaire permanently of the rights, powers and privileges necessary for the proper conduct and operations of the concession; the levy of any attachment or execution which substantially interferes with attachment or execution is not vacated, dismissed, stayed or set aside within a period of 60 days.

20.07 Determination by the Chief Administrative Officer, the State Fair Employment Commission, or the Federal Equal Employment Opportunity Commission of discrimination, or having been practiced by Concessionaire in violation of State or Federal laws thereon.

20.08 Transfer of the majority controlling interest of Concessionaire to persons other than those who are in control at the time of the execution of this agreement without approval thereof by the Chief Administrative Officer.

21. DESTRUCTION OF CONCESSION PREMISES

21.01 In the event the concession premises shall be totally or partially destroyed by fire, earthquake, flood, storms, war, insurrection, riot, public disorder, casualty, County shall either restore the premises or terminate this agreement.

21.02 Should County elect to restore the premises, this agreement shall continue in full force and effect except that the payments to be made by Concessionaire shall be abated or other relief afforded to the extent that the Chief Administrative Officer may determine the damage or restoration interferes with the concession.

21.03 Concessionaire agrees to cooperate with County in the restoration of the concession premises by vacating and removing therefrom all items of inventory, trade fixture, equipment and furnishings for such periods as are required for the restoration thereof. Concessionaire further agrees to cooperate in the determination of the abatement and/or other relief to be provided by furnishing all information requested related to the concession, and permitting examination and audit of all accounting records kept in connection with the conduct thereof.

21.04 The aforesaid provisions of this section shall also be applicable to a total or partial destruction of the facilities by the aforementioned causes, except that the relief to be provided shall be based upon the extent the Chief Administrative Officer may determine that the reduction in the public's use of the facilities, due to the partial or total closure thereof, has affected the concession.

21.05 Concessionaire agrees to accept the remedy heretofore provided in the event of a destruction of the concession premises, and hereby waives any or all additional rights and remedies for relief or compensation that are presently available or may hereinafter be made available under the laws and statutes of this state.

22. CONSTRUCTION BY COUNTY AFFECTING CONCESSION PREMISES

22.01 In the event County shall construct or cause to be constructed a new facility for the concession, this agreement shall continue in full force and effect, except that the payment to be made by Concessionaire will be abated and/or relief afforded to the extent that the Chief Administrative Officer may determine the construction interferes with the concession.

22.02 Concessionaire agrees to cooperate with County in the event the construction affects the concession premises by vacating and removing therefrom all items of inventory, trade fixtures, equipment and furnishings for such periods as are required by the construction of the new facilities. Concessionaire further agrees to cooperate in the determination of the abatement or other relief to be provided by furnishing all information requested relative to the concession and permitting examination and audit of all accounting records kept in connection with the conduct thereof.

22.03 The aforementioned provisions of this section shall also be applicable in the event of performance of work on the Concessionaire's premises requires a partial or total closure thereof, except that the abatement or other relief to be provided shall be based upon the extent the Chief Administrative Officer may determine that the reduction in the public's use of the facility due to the partial or total closure thereof, has affected the concession.

22.04 Concessionaire agrees to accept the remedy heretofore provided in the event of construction upon the concession premises and hereby waives any or all additional rights and remedies for relief or compensation that are presently available or may be made available hereinafter under the laws and statutes of this state.

23. WAIVER

23.01 Any waiver by County of any breach of any one or more of the covenants, conditions, terms and agreements herein contained shall not be construed to be a waiver of any subsequent or other breach of the same or of any other covenant, condition, term or agreement herein contained, nor shall failure on the part of County to require exact, full and complete compliance with any of the covenants, conditions, terms or agreements or estopping County from enforcing the full provisions thereof.

23.02 No delay, failure or omission of County to re-enter the concession premises or to exercise any rights, power, privilege or option, arising from any default, nor any subsequent acceptance of payment then or thereafter accrued shall impair any such right, power, privilege or option, or acquiescence in such default or as a relinquishment of any right.

23.03 No notice to Concession shall be required to restore or revive "time of the essence" after the waiver by County of any default.

23.04 No option, right, power, remedy or privilege of the County shall be construed as being exhausted by the exercise thereof in one or more instances. The rights, powers, options and remedies given the County by this agreement shall be cumulative.

24. RIGHT OF ENTRY

24.01 Any officer or employee of the County may enter upon the concession premises at any and all reasonable times for the purpose of determining whether or not Concessionaire is complying with the terms and conditions thereof, or for any other purpose incidental to the rights of the County.

24.02 In the event of an abandonment, vacation or discontinuance of concession operations for a period in excess of 48 hours, Concessionaire hereby irrevocably appoints the County as an agent for continuing operation of the concession granted herein, and in connection therewith authorizes the officers and employees thereof to (1) take possession of the concession premises, including all improvements, equipment and inventory thereon; (2) remove any and all persons or property on said premises and place any such property in storage for the account of and at the expense of Concessionaire; (3) sublease or license the premises; and (4) after payment of all expenses of such subleasing or licensing apply all payment realized therefrom to the satisfaction or mitigation of all damages arising from Concessionaire's breach of this agreement. Entry by the offices and employees of the County upon the concession premises for the purpose or exercising the authority conferred hereon as agent of Concessionaire shall be without prejudice to the exercise of any other rights provided herein or by law to remedy a breach of this concession agreement.

25. SURRENDER

25.01 Upon expiration of the term hereof, or cancellation thereof as herein provided, Concessionaire shall peaceably vacate the concession premises and any and all improvements located thereon and deliver up the same to County in a reasonable good condition, ordinary wear and tear excepted.

26. TERMINATION FOR IMPROPER CONSIDERATION

26.01 The County may, by written notice to Concessionaire, immediately terminate the right of Concessionaire to proceed under this agreement if it is found that consideration, in any form, was offered or given by Concessionaire, either directly or through an intermediary, to any County officer, employee or agent with the intent of securing the agreement or securing favorable treatment with respect to the award, amendment or extension of the agreement or the making of any determination with respect to the Concessionaire's performance pursuant to the agreement. In the event of such termination, the County shall be entitled to pursue the same remedies against Concessionaire as it could pursue in the event of default by the Concessionaire.

26.02 Concessionaire shall immediately report any attempt by a County officer or employee to solicit such improper consideration. The report shall be made either to the County manager charged with the supervision of the employee or to the County Auditor-Controller's Employee Fraud Hotline at (213) 974-0914 or (800) 544-6881.

26.03 Among other items, such improper consideration may take the form of cash, discounts, service, the provision of travel or entertainment, or tangible gifts.

27. LOBBYIST ORDINANCE

27.01 Concessionaire and each County lobbyist or County lobbying firm as defined in Los Angeles County Code Section 2.160.010, retained by Concessionaire, shall fully comply with the County Lobbyist Ordinance, Los Angeles County Code Chapter 2.160. Failure on the part of Concessionaire or any County lobbyist or County lobbying firm retained by Concessionaire to fully comply with the County Lobbyist Ordinance shall constitute a material breach of this agreement upon which the County may immediately terminate or suspend this agreement.

28. REFERRAL OF CURRENT AND FORMER COUNTY EMPLOYEES FOR EMPLOYMENT WITH CONCESSIONAIRE

28.01 Concessionaire shall accept referrals from County Human Resources of qualified current and former County employees for consideration of employment with Concessionaire. Such consideration for employment shall be limited to the vacancies in Concessionaire's staff needed to perform services under this agreement. If such referrals results in offers of employment such offers shall be made once, shall be in writing, shall

indicate whether the position is full-time or part-time, and shall be valid for a period of 10 calendar days from the date the offer is made, unless such period is extended at Concessionaire's option. Such offers shall be for vacancies which occur in Concessionaire's staff, beginning with Board approval of this agreement and throughout the term of this agreement. Employment offers to such employees shall be under at least the same conditions and rates of compensation which apply to the other persons who are employed or may be employed by Concessionaire. Concessionaire shall maintain records of such offers to include a description of the position and duties, the rate of pay and fringe benefits, and whether the offer was accepted, rejected, or not responded to within the allocated time period. Such employees who are employed by Concessionaire under this paragraph shall not be discharged during the term of this agreement except for cause. At the time of any such discharge for cause, Concessionaire shall in writing notify Human Resources staff or other County staff which may be designated in writing by the Chief Administrative Officer. Notwithstanding any other provision of this agreement, the parties do not in any way intend that any persons shall acquire any rights as a third party beneficiary of this agreement.

29. COUNTY'S QUALITY ASSURANCE PLAN

29.01 The Chief Administrative Officer will evaluate Concessionaire's performance under this agreement on an annual basis. Such evaluation will include assessing Concessionaire's compliance with all contract terms and performance standards. Concessionaire's deficiencies which County determines are severe or continuing and that may place performance of the agreement in jeopardy if not corrected will be reported to the Board of Supervisors. The report will include improvement/corrective action measures taken by the County and Concessionaire. If improvement does not occur consistent with the corrective action measures, the County may terminate this agreement, or impose other penalties as specified in this agreement.

30. CONCESSIONAIRE'S WARRANTY OF ADHERENCE TO COUNTY'S CHILD SUPPORT COMPLIANCE PROGRAM

30.01 Concessionaire acknowledges that the County has established a goal of ensuring that all individuals who benefit financially from the County through County contracts are in compliance with their court-ordered child, family, and espousal support obligations in order to mitigate the economic burden otherwise imposed upon the County and its taxpayers.

30.02 As required by the County's Child Support Compliance Program (County Code Chapter 2.200) and without limiting Concessionaire's duty under this agreement to comply with all applicable provisions of law, Concessionaire warrants that it is in compliance and shall, during the term of this agreement, maintain compliance with employment and wage reporting requirements as required by the Federal Social Security Act (42 USC Section 653a) and California Unemployment Insurance Code Section 1088.55, and shall implement all lawfully served Wage and Earnings Withholding Orders

or District Attorney Notices of Wage and Earnings Assignment for Child or Espousal Support, pursuant to Code of Civil Procedure Section 706.031 and Family Code Section 5246(b).

30.03 Within 30 calendar days of renewal or term extension amendment to this agreement of at least one year, Concessionaire shall submit to the County's District Attorney a completed Principal Owner Information Form (POI Form), incorporated herein by reference, along with certifications in accordance with the provisions of section 2.200.060 of the County Code, that: (1) the POI Form has been appropriately completed and provided to the DA with respect to Concessionaire's Principal Owners; (2) Concessionaire has fully complied with all applicable State and Federal reporting requirements relating to employment reporting for its employees; and (3) Concessionaire has fully complied with all lawfully served Wage and Earnings Assignment Orders and Notices of Assignment and will continue to maintain compliance. Such certification shall be submitted on the Child Support Compliance Program Certification (CSCPC), also incorporated herein by reference. Failure of Concessionaire to submit the CSCPC which includes certification that the POI Form has been submitted to County's DA shall represent a material breach of contract upon which County may immediately suspend or terminate this agreement.

31. TERMINATION FOR BREACH OF WARRANTY TO MAINTAIN COMPLIANCE WITH COUNTY'S CHILD SUPPORT COMPLIANCE PROGRAM

31.01 Failure of Concessionaire to maintain compliance with the requirements set forth in Concessionaire's Warranty of Adherence to County's Child Support Compliance Program shall constitute a default by Concessionaire under this agreement. Without limiting the rights and remedies available to County under any other provision of this agreement, failure to cure such default within 90 calendar days of written notice by County's District Attorney shall be grounds upon which the County may terminate this agreement.

31.02 Concessionaire shall immediately report any attempt by a County officer or employee to solicit such improper consideration. The report shall be made either to the County manager charged with the supervision of the employee or to the County Auditor-Controller's Employee Fraud Hotline at (213) 974-0914 or (800) 544-6881.

31.03 Among other items, such improper consideration may take the form of cash, discounts, service, the provision of travel or entertainment, or tangible gifts.

32. CONCESSIONAIRE'S ACKNOWLEDGMENT TO COUNTY'S CHILD SUPPORT ENFORCEMENT

32.01 Concessionaire acknowledges that the County places a high priority on the enforcement of child support laws and the apprehension of child support evaders. Concessionaire understands that it is the County's policy to encourage all County concessionaires to voluntarily post County's "L.A.'s Most Wanted Delinquent Parents" poster in a prominent location at Concessionaire's place of business. The County's District Attorney will supply Concessionaire with the poster to be used.

33. INDEPENDENT CONTRACTOR

33.01 In performing the obligations hereunder, Concessionaire is engaged solely in the capacity of independent contractor, it being expressly understood that no relationship between the contracting parties hereto other than that of independent Concessionaire has been or is intended to be created. This concession agreement does not constitute and the parties hereto do not intend to create thereby a partnership or a joint venture, or a relationship of master and servant or principal and agent as it is mutually understood and agreed that the relationship created thereby and the construction of rights and duties thereunder is to be determined in accordance with the laws relating to owners and occupants of real property.

34. ENFORCEMENT

34.01 The Chief Administrative Officer shall be responsible for the enforcement and management of this agreement on behalf of the County and shall be assisted therein by those officers and employees of the County having duties in connection with the administration thereof.

35. GRATUITIES

35.01 It is improper for any County officer, employee or agent to solicit consideration, in any form, from a proposer with the implication, suggestion or statement that the proposer's provision of the consideration may secure more favorable treatment for the proposer in the award of the contract or that the proposer's failure to provide such consideration may negatively affect the County's consideration of the proposer's submission. A proposer shall not offer or give, either directly or through an intermediary, consideration, in any form, to a County officer, employee or agent for the purpose of securing treatment with respect to the award of the contract.

35.02 A proposer shall immediately report any attempt by a County officer, employee or agent to solicit such improper consideration. The report shall be made either to the County manager charged with the supervision of the employee or to the County Auditor-Controller's Employee Fraud Hotline at (213) 974-0914 or (800) 544-6861. Failure to report such a solicitation may result in the proposer's submission being eliminated from consideration.

35.03 Among other items, such improper consideration may take the form of cash, discounts, service, the provision of travel or entertainment, or tangible gifts.

36. CONCESSIONAIRE DEBARMENT

36.01 On January 11, 2000, the Los Angeles County Board of Supervisors adopted an ordinance for Determinations of Concessionaire Non-Responsibility and Concessionaire Debarment (Ordinance), Los Angeles County Code Chapter 2.202, which is applicable to all County contracts except to the extent applicable State and/or Federal laws are inconsistent with the terms of the Ordinance.

A. A responsible Concessionaire is a Concessionaire who has demonstrated the attribute of trustworthiness, as well as quality, fitness, capacity and experience to the satisfactorily perform the contract. It is the County's policy to conduct business only with responsible concessionaires.

B. The Concessionaire is hereby notified that, in accordance with Chapter 2.202 of the County Code, if the County acquires information concerning the performance of the Concessionaire on this or other contracts which indicates that the Concessionaire is not responsible, the County, may, in addition to other remedies provided in the contract, debar the Concessionaire from bidding on County contracts for a specified period of time not to exceed 3 years and terminate any or all existing contracts the Concessionaire may have with the County.

C. The County may debar a Concessionaire if the Board of Supervisors finds in its decision, that the Concessionaire has done any of the following: (1) violated any term of a contract with the County, (2) committed any act or omission which negatively reflects on the Concessionaire's quality, fitness or capacity to perform a contract with the County or any other public entity, or engaged in a pattern or practice which negatively reflects on same, (3) committed an act or offense which indicates a lack of business integrity or business honesty, or (4) made or submitted a false claim against the County or any other public entity.

D. If there is evidence that the Concessionaire may be subject to debarment, the Department will notify the Concessionaire in writing of the evidence which is the basis for the proposed debarment and will advise the Concessionaire of the scheduled date for a debarment hearing before the Concessionaire Hearing Board.

E. The Concessionaire Hearing Board will conduct a hearing where evidence on the proposed debarment is presented. The Concessionaire and/or the Concessionaire's representative shall be given an opportunity to submit evidence at that hearing. After the hearing, the Concessionaire Hearing Board shall prepare a proposed decision, which shall contain a recommendation regarding whether the Concessionaire should be debarred; and, if so, the appropriate length of time of the debarment. If the Concessionaire fails to avail itself of the opportunity to submit evidence to the Concessionaire Hearing Board, the Concessionaire may be deemed to have waived all rights of appeal.

37. INTERPRETATION

37.01 This agreement shall be interpreted according to the rules which govern the interpretation of contracts, as prescribed in Part 2 of Division 3 of the State Civil Code, commencing with Section 1635.

37.02 The headings herein-contained are for convenience and reference only and are not intended to define or limit the scope of any provisions hereof.

37.03 The following words as used herein shall be construed to have the following meaning, unless otherwise apparent from the context in which they are used:

County: Shall mean the County of Los Angeles

Chief Administrative Officer: The Chief Administrative Officer of the County of Los Angeles or an authorized representative thereof.

Auditor-Controller: The County Auditor-Controller or an authorized representative thereof.

Beverage: Any liquid prepared by flavoring, heating and/or admixing in advance of consumption thereof, other than alcoholic beverages as defined in the State Alcoholic Beverages Control Act.

Food service facility: A cafeteria operated for the exclusive use of County employees and the guests thereof, including those employees who furnish their own meals for consumption therein.

Concessionaire: A vendor authorized, under this Agreement, to design, construct, and enhance the food service facility for the purpose of providing food service to County employees and the public.

Gross Receipts: All money, cash, receipts, assets, property or other things of value, including, but not limited to, gross charges, sales, rental, fees and commissions made or earned by Concessionaire, and/or assignees, subleases, or permittees thereof, whether collected or accrued from business, use or occupation, or any combination thereof, transacted, performed in whole or in part, on the concession premises, including, but not limited to, rental, the rendering or supplying of services and the sale of goods, wares or merchandise. Gross receipts shall not include the following:

a. Sales and excise taxes applicable thereto, required to be collected by Concessionaire or permittees thereof.

b. Federal, state, municipal or other taxes collected from the consumers, regardless or whether the amount thereof as stated to the consumer as a separate charge, provided the amount of such taxes shall be shown on the accounting records for the concession as hereinafter required.

c. Receipts from the sale or trade-in value of any equipment used on the concession premises and owned by Concessionaire.

d. Receipts in the form of refunds from or the value of merchandise, supplies or equipment returned to the shippers, suppliers or manufacturers.

e. Receipts with respect to any sale where the subject of such sale or some part thereof, is thereafter returned by the purchaser and accepted by Concessionaire, to the extent of any refund actually granted or adjustment actually made, either in the form of cash or credit.

Net Profit: Net profit shall be computed by deducting from gross receipts all expenses paid or incurred by Concessionaire which are directly related to the concession operation for said contract year. These expenses consist of salaries and benefits for employees, including an on-site manager, performing services and labor on the premises, food costs, costs of expendable items such as eating and cooking utensils, costs of utilities, waste disposal, maintenance and repair costs, depreciation on equipment owned by Concessionaire (useful life shall be the period of this contract) and the costs of insurance, taxes, licenses and fees prorated on the basis of a contract year. Said direct expenses shall not include administrative expenses, such as management salaries, accounting, auditing, clerical and other services generally classified as overhead. In the event there is any conflict or disagreement as to what constitutes a direct expense, the opinion of the County's Auditor-Controller shall be decisive in the matter.

State: The State of California.

38. NOTICES

38.01 Any notices required to be given under the terms of this concession agreement or any law applicable thereto may be placed in a sealed envelope, with postage paid, addressed to the person on whom it is to be served, and deposited in a post office mail box, sub-post office, substation or mail chute, or other like facility regularly maintained by the United States Postal Service. The address to be used for any notice served by mail upon Concessionaire shall be:

Morrison Management Specialists, Inc.
5801 Peachtree Dunwoody Rd.
Atlanta, GA 30312

or such other place as any hereinafter be designated in writing to the Chief Administrative Officer by Concessionaire.

38.02 Any notice served by mail upon County shall be addressed to:

The Chief Administrative Office
Real Estate Division
222 South Hill Street, 3rd Floor
Los Angeles, CA 90012
Attention: Carlos Brea

or such other place as may hereinafter be designated in writing to Concessionaire by the Chief Administrative Officer. Service by mail shall be deemed complete upon deposit in the above-mentioned manner.

39. COUNTY'S NON-RESPONSIBILITY FOR SALES PROCEEDS

The Concessionaire represents it has made its own determinations for the profitability and viability of the concession herein including traffic counts of possible patrons, previous sales history, if any, and has not relied on any representations made by the County or its staff or representatives. The County assumes no liability for any sales losses whatsoever caused by the reduction of its staff or public clientele, damages to the premises, relocation of patron traffic and access, boycotts, strikes, relocation of premises, or any other reason whatsoever.

40. COMPLIANCE WITH LIVING WAGE PROGRAM

A. Living Wage Program.

This contract is subject to the provisions of the County's ordinance entitled Living Wage Program ("Program") as codified in Sections 2.201.010 through 2.201.100 of the Los Angeles County Code, a copy of which is attached hereto and incorporated by reference into and made a part of the contract.

B. Payment of Living Wage Rates.

1. Unless Concessionaire has demonstrated to the County's satisfaction either that Concessionaire is not an "Employer" as defined under the Program (Section 2.201.020 of the County Code) or that Concessionaire qualifies for an exception to the Program (Section 2.201.090 of the County Code), Concessionaire shall pay its Employees no less than the applicable hourly living wage rate, as set forth immediately below, for the Employees' services provided to the County under the contract:

a. Not less than \$9.46 per hour if, in addition to the per-hour wage, Concessionaire contributes less than \$1.14 per hour towards the provision of bona fide health care benefits for its Employees and any dependents; or

b. Not less than \$8.32 per hour if, in addition to the per-hour wage, Concessionaire contributes at least \$1.14 per hour towards the provision of bona fide health care benefits for its Employees and any dependents. Concessionaire will be deemed to have contributed \$1.14 per hour towards the provision of bona fide health care benefits if the benefits are provided through the County Department of Health Services Community Health Plan. If, at any time during the contract, Concessionaire contributes less than \$1.14 per hour towards the provision of bona fide health care benefits, Concessionaire shall be required to pay its Employees the higher hourly living wage rate.

2. For purposes of this Section, "Concessionaire " includes any subcontractor engaged by Concessionaire to perform services for the County under the contract. If Concessionaire uses any subcontractor to perform services for the County under the contract, the sub-concessionaire shall be subject to the provisions of this Section. The provisions of this Section shall be inserted into any such subcontract agreement and a copy of the Program shall be attached to the agreement. "Employee" means any individual who is an employee of Concessionaire under the laws of California, and who is providing full-time services to Concessionaire , some or all of which are provided to the County under the contract. "Full-time" means a minimum of 40 hours worked per week, or a lesser number of hours, if the lesser number is a recognized industry standard and is approved as such by the County; however, fewer than 35 hours worked per week will not, in any event, be considered full time.

3. If Concessionaire is required to pay a living wage when the contract commences, Concessionaire shall continue to pay a living wage for the entire term of the contract, including any option period.

4. If Concessionaire is not required to pay a living wage when the contract commences, Concessionaire shall have a continuing obligation to review the applicability of its "exemption status" from the living wage requirement, and Concessionaire shall immediately notify County if Concessionaire at any time either comes within the Program's definition of "Employer" or if Concessionaire no longer qualifies for an exception to the Program. In either event, Concessionaire shall immediately be required to commence paying the living wage and shall be obligated to pay the living wage for the remaining term of the contract, including any option period. The County may also require, at any time during the contract and at its sole discretion, that Concessionaire demonstrate to the County's satisfaction that Concessionaire either continues to remain outside of the Program's definition of "Employer" and/or that Concessionaire continues to qualify for an exception to the Program. Unless Concessionaire satisfies this requirement within the time frame permitted by the County, Concessionaire shall immediately be required to pay the living wage for the remaining term of the contract, including any option period.

C. Concessionaire's Submittal of Certified Monitoring Reports.

Concessionaire shall submit to the County certified monitoring reports at a frequency instructed by the County. The certified monitoring reports shall list all of Concessionaire's Employees during the reporting period. The certified monitoring reports shall also verify the number of hours worked, the hourly wage rate paid, and the amount paid by Concessionaire for health benefits, if any, for each of its Employees. The certified monitoring reports shall also state the name and identification number of Concessionaire's current health care benefits plan, and Concessionaire's portion of the premiums paid as well as the portion paid by each Employee. All certified monitoring reports shall be submitted on forms provided by the County, or any other form approved by the County which contains the above information. The County reserves the right to request any additional information it may deem necessary. If the County requests additional information, Concessionaire shall promptly provide such information. Concessionaire, through one of its officers, shall certify under penalty of perjury that the information contained in each certified monitoring report is true and accurate.

D. Concessionaire's Ongoing Obligation to Report Labor Law/Payroll Violations and Claims.

During the term of the contract, if the Concessionaire becomes aware of any labor law/payroll violation or any complaint, investigation or proceeding ("claim") concerning any alleged labor law/payroll violation (including but not limited to any violation or claim pertaining to wages, hours and working conditions such as minimum wage, prevailing wage, living wage, the Fair Labor Standards Act, employment of minors, or unlawful employment discrimination), the Concessionaire shall immediately inform the County of any pertinent facts known by the Concessionaire regarding same. This disclosure obligation is not limited to any labor law/payroll violation or claim arising out of the Concessionaire's contract with the County, but instead applies to any labor law/payroll violation or claim arising out of any of the Concessionaire's operations in California.

E. County Auditing of Concessionaire Records.

Upon a minimum of twenty-four (24) hours' written notice, the County may audit, at Concessionaire's place of business, any of Concessionaire's records pertaining to the contract, including all documents and information relating to the certified monitoring reports. Concessionaire is required to maintain all such records in California until the expiration of four years from the date of final payment under the contract. Authorized agents of the County shall have access to all such records during normal business hours for the entire period that records are to be maintained.

F. Notifications to Employees.

Concessionaire shall place County-provided living wage posters at each of Concessionaire's place of business and locations where Concessionaire's employees are working. Concessionaire shall also distribute County-provided notices to each of its employees at least once per year. Concessionaire shall translate into Spanish and any other language spoken by a significant number of employees the posters and hand outs.

G. Enforcement and Remedies.

If Concessionaire fails to comply with the requirements of this Section, the County shall have the rights and remedies described in this Section in addition to any rights and remedies provided by law or equity.

1. Remedies For Submission of Late or Incomplete Certified Monitoring Reports. If Concessionaire submits a certified monitoring report to the County after the date it is due or if the report submitted does not contain all of the required information or is inaccurate or is not properly certified, any such deficiency shall constitute a breach of the contract. In the event of any such breach, the County may, in its sole discretion, exercise any or all of the following rights/remedies:

a. Withholding of Payment. If Concessionaire fails to submit accurate, complete, timely and properly certified monitoring reports, the County may withhold from payment to Concessionaire up to the full amount of any invoice that would otherwise be due, until Concessionaire has satisfied the concerns of the County, which may include required submittal of revised certified monitoring reports or additional supporting documentation.

b. Liquidated Damages. It is mutually understood and agreed that Concessionaire's failure to submit an accurate, complete, timely and properly certified monitoring report will result in damages being sustained by the County. It is also understood and agreed that the nature and amount of the damages will be extremely difficult and impractical to fix; that the liquidated damages set forth herein are the nearest and most exact measure of damages for such breach that can be fixed at this time; and that the liquidated damages are not intended as a penalty or forfeiture for Concessionaire's breach. Therefore, in the event that a certified monitoring report is deficient, including but not limited to being late, inaccurate, incomplete or uncertified, it is agreed that the County may, in its sole discretion, assess against Concessionaire liquidated damages in the amount of \$100 per monitoring report for each day until the County has been provided with a properly prepared, complete and certified monitoring report. The County may deduct any assessed liquidated damages from any payments otherwise due Concessionaire.

c. Termination. Concessionaire's failure to submit an accurate, complete, timely and properly certified monitoring report may constitute a material breach of the contract. In the event of such material breach, County may, in its sole discretion, terminate the contract.

2. Remedies for Payment of Less Than the Required Living Wage. If Concessionaire fails to pay any employee at least the applicable hourly living wage rate, such deficiency shall constitute a breach of the contract. In the event of any such breach, the County may, in its sole discretion, exercise any or all of the following rights/remedies:

a. Withholding Payment. If Concessionaire fails to pay one or more of its employees at least the applicable hourly living wage rate, the County may withhold from any payment otherwise due Concessionaire the aggregate difference between the living wage amounts Concessionaire was required to pay its employees for a given pay period and the amount actually paid to the employees for that pay period. The County may withhold said amount until Concessionaire has satisfied the County that any underpayment has been cured, which may include required submittal of revised certified monitoring reports or additional supporting documentation.

b. Liquidated Damages. It is mutually understood and agreed that Concessionaire's failure to pay any of its employees at least the applicable hourly living wage rate will result in damages being sustained by the County. It is also understood and agreed that the nature and amount of the damages will be extremely difficult and impractical to fix; that the liquidated damages set forth herein are the nearest and most exact measure of damages for such breach that can be fixed at this time; and that the liquidated damages are not intended as a penalty or forfeiture for Concessionaire's breach. Therefore, it is agreed that the County may, in its sole discretion, assess against Concessionaire liquidated damages of \$50 per employee per day for each and every instance of an underpayment to an employee. The County may deduct any assessed liquidated damages from any payments otherwise due Concessionaire.

c. Termination. Concessionaire's failure to pay any of its employees the applicable hourly living wage rate may constitute a material breach of the contract. In the event of such material breach, County may, in its sole discretion, terminate the contract.

3. Debarment. In the event Concessionaire breaches a requirement of this Section, the County may, in its sole discretion, bar Concessionaire from the award of future County contracts for a period of time consistent with the seriousness of the breach, not to exceed three years.

H. Use of Full-Time Employees.

Concessionaire shall assign and use full-time employees of Concessionaire to provide services under the contract unless Concessionaire can demonstrate to the satisfaction of the County that it is necessary to use non-full-time employees based on staffing efficiency or County requirements for the work to be performed under the contract. It is understood and agreed that Concessionaire shall not, under any circumstance, use non-full-time employees for services provided under the contract unless and until the County has provided written authorization for the use of same. Concessionaire submitted with its proposal a full time employee staffing plan. If Concessionaire changes its full time employee staffing plan, Concessionaire shall immediately provide a copy of the new staffing plan to the County.

I. Concessionaire Retaliation Prohibited.

Concessionaire and/or its employees shall not take any adverse action which would result in the loss of any benefit of employment, any contract benefit, or any statutory benefit for any employee, person or entity who has reported a violation of the Program to the County or to any other public or private agency, entity or person. A violation of the provisions of this paragraph may constitute a material breach of the contract. In the event of such material breach, County may, in its sole discretion, terminate the contract.

J. Concessionaire Standards.

During the term of the contract, Concessionaire shall maintain business stability, integrity in employee relations and the financial ability to pay a living wage to its employees. If requested to do so by the County, Concessionaire shall demonstrate to the satisfaction of the County that Concessionaire is complying with this requirement.

K. Employee Retention Rights.

Note: This paragraph applies only if the contract involves the provision of services that were previously provided by a Concessionaire under a predecessor Proposition A contract or a predecessor cafeteria services contract, which predecessor contract was terminated by the County prior to its expiration.

1. Concessionaire shall offer employment to all retention employees who are qualified for such jobs. A "retention employee" is an individual:

a. Who is not an exempt employee under the minimum wage and maximum hour exemptions defined in the federal Fair Labor Standards Act; and

b. Who has been employed by a Concessionaire under a predecessor Proposition A contract or a predecessor cafeteria services contract with the County for at least six months prior to the date of this new contract, which predecessor contract was terminated by the County prior to its expiration; and

c. Who is or will be terminated from his or her employment as a result of the County entering into this new contract.

2. Concessionaire is not required to hire a retention employee who:

a. Has been convicted of a crime related to the job or his or her performance; or

b. Fails to meet any other County requirement for employees of a Concessionaire.

3. Concessionaire shall not terminate a retention employee for the first 90 days of employment under the contract, except for cause. Thereafter, Concessionaire may retain a retention employee on the same terms and conditions as Concessionaire's other employees.

L. Neutrality in Labor Relations.

Concessionaire shall not use any consideration received under the contract to hinder, or to further, organization of, or collective bargaining activities by or on behalf of Concessionaire's employees, except that this restriction shall not apply to any expenditure made in the course of good faith collective bargaining, or to any expenditure pursuant to obligations incurred under a bona fide collective bargaining agreement, or which would otherwise be permitted under the provisions of the National Labor Relations Act.

41. COMPLIANCE WITH JURY SERVICE PROGRAM

A. Jury Service Program

This Contract is subject to the provisions of the County's ordinance entitled Contractor Employee Jury Service ("Jury Service Program") as codified in Sections 2.203.010 through 2.203.090 of the Los Angeles County Code.

B. Written Employee Jury Service Policy

1. Unless Concessionaire has demonstrated to the County's satisfaction either that Concessionaire is not a "Contractor" as defined under the Jury Service Program (Section 2.203.020 of the County Code) or that Concessionaire qualifies for an exception to the Jury Service Program (Section 2.203.070 of the County Code), Concessionaire shall have and adhere to a written policy that provides that its Employees shall receive from the Concessionaire, on an annual basis, no less than five days of regular pay for actual jury service. The policy may provide that Employees deposit any fees received for such jury service with the Concessionaire or that the Concessionaire deduct from the Employee's regular pay the fees received for jury service.

2. For purposes of this Section, "Concessionaire" means a person, partnership, corporation or other entity which has a contract with the County or a subcontract with a County contractor and has received or will receive an aggregate sum of \$50,000 or more in any 12-month period under one or more County contracts or subcontracts. "Employee" means any California resident who is a full time employee of Concessionaire. "Full time" means 40 hours or more worked per week, or a lesser number of hours if: 1) the lesser number is a recognized industry standard as determined by the County, or 2) Concessionaire has a long-standing practice that defines the lesser number of hours as full-time. Full-time employees providing short-term, temporary services of 90 days or less within a 12-month period are not considered full-time for purposes of the Jury Service Program. If Concessionaire uses any subcontractor to perform services for the County under the Contract, the subcontractor shall also be subject to the provisions of this Section. The provisions of this Section shall be inserted into any such subcontract agreement and a copy of the Jury Service Program shall be attached to the agreement.

3. If Concessionaire is not required to comply with the Jury Service Program when the Contract commences, Concessionaire shall have a continuing obligation to review the applicability of its "exception status" from the Jury Service Program, and Concessionaire shall immediately notify County if Concessionaire at any time either comes within the Jury Service Program's definition of "Concessionaire" or if Concessionaire no longer qualifies for an exception to the Program. In either event, Concessionaire shall immediately implement a written policy consistent with the Jury Service Program. The County may also require, at any time during the Contract and at its sole discretion, that Concessionaire demonstrate to the County's satisfaction that Concessionaire either continues to remain outside of the Jury Service Program's definition of "Concessionaire" and/or that Concessionaire continues to qualify for an exception to the Program.

4. Concessionaire's violation of this Section of the contract may constitute a material breach of the Contract. In the event of such material breach, County may, in its sole discretion, terminate the Contract and/or bar Concessionaire from the award of future County contracts for a period of time consistent with the seriousness of the breach. Concessionaire shall properly prepare and execute Exhibit "C" which is attached hereto.

42. ENTIRE AGREEMENT

41.01 This document and the exhibits attached hereto, constitute the entire agreement between the County and Concessionaire for the food service concession stated herein. All other agreement, promises and representations with respect thereto, other than contained herein, are expressly revoked, as it has been the intention of the parties to provide for a complete integration within the provisions of this document, the terms, conditions, promises and covenants relating to the concession and the premises to be used in the conduct thereof. The unenforceability, invalidity, or illegality of any provision of this agreement shall not render the other provisions thereof unenforceable, invalid or illegal.

41.02 This document may be modified only upon written agreement between the parties hereto. Any such modification shall not be effective unless and until executed by Concessionaire and in the case of County until approved by the Chief Administrative Office.

43. FORCE MAJEURE

In the event that either party is delayed or hindered from the performance of any act required hereunder by reason of strikes, lock-outs, labor troubles, inability to procure materials not related to the price thereof, failure of power, restrictive governmental laws and regulations, riots, insurrection, war or other reasons of a like nature beyond the control of such party, then performance of such acts shall be excused for the period of the delay, and the period for the performance of any such act shall be extended for a period equivalent to the period of such.

IN WITNESS WHEREOF, the Concessionaire has executed this Concession Agreement or caused it to be duly executed, and the County of Los Angeles by order of its Board of Supervisors, has caused this Concession Agreement to be executed on its behalf by the Chairman of said Board and attested by the Clerk thereof the day, month, and year first above written.

CONCESSIONAIRE:

MORRISON MANAGEMENT SPECIALISTS,
INC.

By _____
Ed Clark

COUNTY OF LOS ANGELES

By _____
Chairman, Board of Supervisors

ATTEST:

VIOLET VARONA-LUKENS
Executive Officer-Clerk of
the Board of Supervisors

By _____

APPROVED AS TO FORM:

LLOYD W. PELLMAN
County Counsel

By _____
Deputy: Francis E. Scott

**COUNTY OF LOS ANGELES CONTRACTOR EMPLOYEE JURY SERVICE PROGRAM
APPLICATION FOR EXCEPTION AND CERTIFICATION FORM**

The County's solicitation for this contract/purchase order (Request for Proposal or Invitation for Bid) is subject to the County of Los Angeles Contractor Employee Jury Service Program (Program) (Los Angeles County Code, Chapter 2.203). All bidders or proposers, whether a contractor or subcontractor, must complete this form to either 1) request an exception from the Program requirements or 2) certify compliance. Upon review of the submitted form, the County department will determine, in its sole discretion, whether the bidder or proposer is excepted from the Program.

Company Name:		
Company Address:		
City:	State:	Zip Code:
Telephone Number:		
Solicitation For (Type of Goods or Services):		

If you believe the Jury Service Program does not apply to your business, check the appropriate box in Part I (attach documentation to support your claim); or, complete Part II to certify compliance with the Program. Whether you complete Part I or Part II, please sign and date this form below.

Part I: Jury Service Program Is Not Applicable to My Business

- ☐ My business does not meet the definition of "contractor," as defined in the Program as it has not received an aggregate sum of \$50,000 or more in any 12-month period under one or more County contracts or subcontracts (this exception is not available if the contract/purchase order itself will exceed \$50,000). I understand that the exception will be lost and I must comply with the Program if my revenues from the County exceed an aggregate sum of \$50,000 in any 12-month period.
- ☐ My business is a small business as defined in the Program. It 1) has ten or fewer employees; and, 2) has annual gross revenues in the preceding twelve months which, if added to the annual amount of this contract, are \$500,000 or less; and, 3) is not an affiliate or subsidiary of a business dominant in its field of operation, as defined below. I understand that the exemption will be lost and I must comply with the Program if the number of employees in my business and my gross annual revenues exceed the above limits.

"Dominant in its field of operation" means having more than ten employees, including full-time and part-time employees, and annual gross revenues in the preceding twelve months, which, if added to the annual amount of the contract awarded, exceed \$500,000.

"Affiliate or subsidiary of a business dominant in its field of operation" means a business which is at least 20 percent owned by a business dominant in its field of operation, or by partners, officers, directors, majority stockholders, or their equivalent, of a business dominant in that field of operation.

- ☐ My business is subject to a Collective Bargaining Agreement (attach agreement) that expressly provides that it supersedes all provisions of the Program.

OR

Part II - Certification of Compliance

- ☐ My business has and adheres to a written policy that provides, on an annual basis, no less than five days of regular pay for actual jury service for full-time employees of the business who are also California residents, or my company will have and adhere to such a policy prior to award of the contract.

I declare under penalty of perjury under the laws of the State of California that the information stated above is true and correct.

Print Name:	Title:
Signature:	Date:

CONCESSION AGREEMENT

BETWEEN

COUNTY OF LOS ANGELES

AND

P & A FOOD SYSTEMS, INC.

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THIS CONCESSION AGREEMENT, made and entered into this _____ day
of _____, 2002

BY AND BETWEEN

COUNTY OF LOS ANGELES, a body corporate
and politic, hereinafter referred to as "County",

AND

P & A FOOD SYSTEMS, INC., referred to as
"Concessionaire",

W I T N E S S E T H:

WHEREAS, County owns the Edmund D. Edelman's Children's Court located at 201
Centre Plaza Drive, Monterey Park, CA.

WHEREAS, The Board of Supervisors is authorized by the provisions of
Government Code 25536 to grant concessions therein that are consistent with the
government purposes served thereby; and

WHEREAS, a concession for the sale of food and beverage is consistent with said
purposes;

WHEREAS, Concessionaire is willing to exercise the grant of such a concession in
accordance with the terms and conditions prescribed therefor;

NOW, THEREFORE, in consideration of the mutual promises, covenants and
conditions set forth herein, the parties and each of them do agree as follows:

1. CONCESSION GRANTED

1.01 Concessionaire is hereby authorized to sell food, beverages and sundry items
within the confines of the Edmund D. Edelman's Children's Court Cafeteria.

1.02 Concessionaire understands and agrees that the concession is by license
and not lease; confers only permission to occupy and use the premises described for
concession purposes in accordance with the terms and conditions hereinafter specified
without granting or reserving to Concessionaire any interest or estate therein; the
expenditure of capital and/or labor in the course of use and occupancy thereunder shall not
confer any interest or estate in the premises by virtue of said use, occupancy and/or
expenditure of money thereon; and it is the intention of the parties to limit the right of user
granted herein to a personal, revocable and unassignable privilege of use in the premises
for the concession granted herein.

2. CONCESSION PREMISES

2.01 The concession shall be conducted from the approximately 6,909 square feet existing cafeteria located on the ground floor of Edmund D. Edelman's Children's Court Cafeteria and to be refurbished pursuant to Paragraph 10 (Required Construction).

2.02 The concession premises shall be used only and exclusively for concession purposes, and such other purposes as are related thereto provided express approval therefor is granted by the Chief Administrative Officer and for no other purposes whatsoever.

2.03 Concessionaire acknowledges personal inspection of the concession premises and the surrounding area and evaluation of the extent to which the physical condition thereof will affect the concession. Concessionaire accepts the concession premises in their present physical condition, and agrees to make no demands upon County for any improvements or alteration thereof.

2.04 Concessionaire may make or construct or cause to be made or constructed additions, alterations, repairs or changes in the concession premises in addition to those required under Section 10, at Concessionaire's expense, provided written approval thereof is first obtained from the Administrative Office; permits are obtained therefor as hereafter required, and there is compliance with such terms and conditions relating thereto as may be imposed thereon by the Chief Administrative Office.

2.05 Concessionaire hereby acknowledges the title of County or any other public agencies having jurisdiction thereover, in and to the concession premises and the improvements located thereon, and covenants and agrees never to assail, contest or resist said title.

2.06 Ownership of all improvements constructed by Concessionaire upon the concession premises and all equipment, alterations, additions or betterments thereto shall remain in Concessionaire until termination of this agreement. Upon termination, whether by expiration of the term, cancellation for breach as determined by County or forfeiture, ownership thereto shall vest in County, without compensation being paid therefor, and such improvements and all installed equipment stated in the attached "Equipment List" attached hereto and incorporated herein and marked as Exhibit "A" with floor plan marked as Exhibit "B", shall be surrendered with the concession premises, unless demand for their removal shall be given by the Chief Administrative Office at least ninety (90) days prior to the date of termination. Should Concessionaire fail to remove said improvements, and/or equipment, the same may be sold, removed or demolished, and Concessionaire shall reimburse County for any cost or expense in connection therewith in excess of any consideration received by County as a result of said sale, removal or demolition.

3. TERM

3.01 The term of the concession shall be for a period of five years commencing August 3, 2002 upon approval of the contract by the County and terminating five years thereafter, unless sooner terminated or modified as herein provided.

3.02 Notwithstanding the provision of paragraph 19, this concession agreement may be terminated at the County's convenience and without any reason upon serving a 60 day written notice to the Concessionaire.

3.03 In the event Concessionaire holds over beyond the term herein provided with the consent, express or implied of County, such holding shall be from month to month only, subject to the conditions of this agreement, shall not be a renewal, and shall be at the monthly compensation provided herein.

4. RENT

4.01 Concessionaire shall pay rent to the County in the amount of 4% of monthly gross sales, excluding sales tax, on all sales including the children's meal and snack program.

4.02 Payment shall be made by check or draft issued and payable to the Los Angeles County Auditor-Controller. The Concessionaire's accounting cycle is thirteen four week periods closing every fourth Thursday. Rent shall be due and payable within fourteen days of the close of each period. Concessionaire will provide an accounting calendar clearly indicating each date rent becomes due. Payment shall be mailed or otherwise delivered to the Franchise/ Concession Section, Auditor Controller, County of Los Angeles, 500 West Temple St., Room 514, Los Angeles, California 90012, with a copy of such check to be mailed to Chief Administrative Office, Real Estate Division, Property Management Section, 222 South Hill Street, 3rd Floor, Los Angeles, California 90012.

4.03 In the event payment is not made on or before said date, a penalty of 10 percent shall be added to the unpaid amount.

4.04 The late payment charge may be waived whenever the Chief Administrative Officer, upon appeal of the Concessionaire, finds late payment excusable by reason of extenuating circumstances.

4.05 Any late payment charge shall be due and payable within the next rental payment period. County shall not be obligated at any time to notify Concessionaire of late payment charges or the accumulation thereof.

5. ACCOUNTING RECORDS

5.01 Concessionaire shall be required to maintain a method of accounting which shall, to the satisfaction of the Auditor-Controller, correctly and accurately reflect the gross receipts and disbursements of Concessionaire in connection with the concession. The method of accounting, including bank accounts established for the concession, shall be separate from the accounting system used for any other business operated by Concessionaire or for recording Concessionaire's personal financial affairs. Such method shall include the keeping of the following documents:

- a. Regular books of accounting such as general ledgers.
- b. Journals, including any supporting and underlying documents such as vouchers, checks, tickets, bank statements, etc.
- c. State and Federal income tax returns and sales tax returns and checks and other documents providing payment of sum shown which shall be kept in confidence by the County.
- d. Cash register tapes (daily tapes may be separated) but shall be retained so that from day to day the sales can be identified.
- e. Any other accounting records that the Auditor-Controller deems necessary for proper reporting of receipts.

5.02 All sales shall be recorded by means of cash registers which publicly display the amount of each sale and automatically issue a customer's receipt or certify the amount recorded in a sales slip. Said cash registers shall, in all cases, have locked-in sales totals and transaction counters which are constantly accumulating and which cannot, in either case, be reset, and in addition thereto, a tape located within the register on which transaction number and sales details are imprinted. Beginning and ending cash registers readings shall be made a matter of daily record. If requested by the County, the County shall be furnished and retain all the reset keys for the cash registers.

5.03 All documents, books and accounting records shall be open for inspection and reinspection at any reasonable time during the term of this agreement. In addition, the Auditor-Controller may from time to time conduct an audit and re-audit of the books and business conducted by Concessionaire and observe the operation of the business so that accuracy of the above records can be confirmed. If the report of gross sales made by Concessionaire to the Auditor-Controller should be found to be less than the amount of gross sales disclosed by such audit and observation, Concessionaire shall pay the delinquent amount within 30 days of billing therefor. If the additional amount due exceeds 2 percent and there is no reasonable basis for the failure to report and pay thereon, Concessionaire shall also pay the cost of the audit and late charges heretofore provided for delinquent payments.

All information obtained in connection with the Auditor-Controller's inspection of records or audit shall be treated as confidential information and except from public disclosure thereof. County shall not be liable or responsible for the disclosure of any such records including those marked trade secret, confidential or proprietary, if such disclosure is deemed to be required by law or an order of Court.

5.04 Concessionaire shall furnish the Auditor-Controller with a monthly gross receipts report showing the amount payable therefrom to the County. A copy of the monthly sales report shall be mailed to Chief Administrative Office, Real Estate Division, 222 South Hill Street, 3rd Floor, Los Angeles, California 90012, Attention: Property Management Section. In addition thereto, Concessionaire shall furnish the Auditor-Controller with an annual Profit and Loss statement and a balance sheet prepared by a person on a form acceptable to said officer. The annual financial statements shall be submitted within 60 days of the close of an agreement year. Said closing date shall be determined by reference to the date for commencement of the term herein provided.

5.05 All such accounting records, including, but not limited to, all financial records, journals, vouchers, checks, State and Federal income tax returns and sales tax returns, cash register tapes, proprietary data and information, shall be kept and maintained by Concessionaire and shall be made available to County during the term of this agreement and for a period of four years thereafter unless County's written permission is given to dispose of any such material prior to such time. All such material shall be maintained by Concessionaire at a location in Los Angeles County, provided that if any such material is located outside the Los Angeles County, then, at County's option, Concessionaire shall pay County for travel, per diem, and other costs incurred by County to examine, audit, excerpt, copy or transcribe such material at such other location.

6. OPERATING RESPONSIBILITIES

6.01 Compliance with Law

Concessionaire shall conform to and abide by all municipal and County ordinances, State and Federal laws and regulations, insofar as the same or any of them are applicable; and where permits or licenses are required for the concession or construction authorized herein, the same must be first obtained from the regulatory agency having jurisdiction thereover.

6.02 Compliance with Rules and Regulations

Concessionaire shall conform to and abide by all rules and regulations of the Board of Supervisors, Chief Administrative Officer, County Departments and other governmental regulatory agencies insofar as the same or any of them are applicable.

6.03 **Disorderly Persons**

Concessionaire agrees not to allow any loud, boisterous or disorderly persons to loiter about the concession premises.

6.04 **Illegal Activity**

Concessionaire shall not permit any illegal activities to be conducted upon the concession premises.

6.05 **Signs**

Concessionaire shall not post signs or advertising matter upon the concession premises or improvements thereon, unless prior approval therefor is first obtained from the Chief Administrative Officer.

6.06 **Noninterference**

Concessionaire shall not interfere with the public use of the County building where the cafeteria is located.

6.07 **Concession Staff**

6.07.01 Concessionaire shall maintain an adequate and proper staff and shall make a reasonable effort to retain present employees. The Chief Administrative Officer may, at any time, give Concessionaire written notice to the fact that the conduct or actions of a designated employee of Concessionaire is, in the reasonable belief of the Chief Administrative Officer, detrimental to the interests of the public patronizing the concession premises. Concessionaire will meet with representatives of the Chief Administrative Officer to consider the appropriate course of action with respect to such matter and Concessionaire shall take reasonable measures under the circumstances to assure the Chief Administrative Officer that the conduct and activities of Concessionaire's employee will not be detrimental to the interest of the public patronizing the concession premises.

6.07.02 Concessionaire shall designate one member of the staff as the Concession Manager with whom County may deal on a daily basis. Any other persons selected by Concessionaire as Concession Manager shall be skilled in the management of business similar to the Concessionaire and shall be subject to approval by the Chief Administrative Officer. The Concession manager shall be fully acquainted with the concession, familiar with the terms and conditions prescribed therefore by this agreement; and authorized to act in the day-to-day operation thereof. Concessionaire and/or Manager shall attend any required meetings.

6.07.03 Concessionaire warrants that it fully complies with all statutes, requirements and laws regarding the employment eligibility of aliens and other, and that its employees performing services hereunder meet the citizenship or alien status requirements contained in federal and state statutes and regulations including, but not limited to, the Immigration Reform and Control Act of 1986 (P.L. 99-603). Concessionaire shall obtain from all covered employees eligibility status required by federal statutes and regulations as they currently exist and as they may be hereafter amended. Concessionaire shall retain such documentation for all covered employees for the period prescribed by law. Concessionaire shall indemnify, defend, and hold harmless the County, its officers and employees from employer sanctions and any other liability which may be assessed against Concessionaire or the County, or both in connection with any alleged violation of federal statutes or regulations pertaining to the eligibility for employment of persons performing services under this agreement.

6.07.04 All persons employed by Concessionaire under this agreement shall be competent, trustworthy and well qualified for their work. Concessionaire shall submit to the Chief Administrative Officer a roster of employees who are required to enter County facilities. The roster shall be kept current. Concessionaire and his/her employees will be required to provide picture identification for entry into the facility and to comply with all applicable regulations of the County. Concessionaire shall provide uniforms for its staff at its own expense and require the staff to wear the uniforms while working at the premises.

6.07.05 Concessionaire shall file with the Chief Administrative Officer a certificate for each member of the concession staff showing that within the last two years such person has been examined and has been found to be free of communicable tuberculosis. Certificate means a document signed by the examining physician and surgeon who is licensed under Chapter 5 (commencing with Section 2000), Division 2 of the State Business and Professions Code or a notice from a public health agency or unit of the Tuberculosis Association which indicated freedoms from active tuberculosis. In addition, Concessionaire shall provide annual medical certifications for each staff member at its expense.

6.08 Days and Hours of Operation

The minimum hours of operation shall be from 7:00 AM to 3:00 PM Monday through Friday except holidays. In addition, thereto, Concessionaire shall keep the concession open for service to employees at such other times as may be requested by the Chief Administrative Officer. In the event of emergencies, Concessionaire shall be required to keep the concession open and provide food service.

6.09. Menu Price Schedules

Concessionaire shall at all times maintain a complete list or schedule of the prices charged for all goods or services, or combinations thereof, supplied to the public on or from the concession premises. Said prices shall be fair and reasonable based upon the following considerations: that the concession is intended to serve the needs of the public for the goods and/or services supplied at a fair and reasonable cost; comparability with prices charged for similar goods and/or services supplied in the Los Angeles Metropolitan Area; and reasonableness of profit margin in view of the cost of providing same in compliance with the obligations assumed in this agreement. In the event the Chief Administrative Office notifies Concessionaire that prices being charged are not fair and reasonable, Concessionaire shall have the right to confer with the Chief Administrative Office and justify said prices. Following reasonable conference and consultation thereon, Concessionaire shall make such price adjustments as may be ordered by the Chief Administrative Office. Concessionaire may appeal the determination of the Chief Administrative Office to the Board of Supervisors, whose decision thereon shall be final and conclusive. However, Concessionaire shall comply with the ordered price adjustment pending the appeal and final ruling thereon by the Board of Supervisors.

6.10 Menu

Concessionaire's proposed menu attached hereto and marked as Exhibit "C" is to be prepared and submitted for the County's final approval and shall include prices, a description of each item, the weight of each portion and the government grades for its component items. This is also required of any future proposed menus or changes. No menu shall misrepresent quality, grade, or weight of any item. If Concessionaire is unable to determine the weight of a given item, it may indicate that its weight will not be less than an amount which Concessionaire shall state. For a product which changes weight during cooking, Concessionaire shall indicate whether the weight indicated is that product's uncooked weight. If Concessionaire purchases various government grades of a given item, it shall state the lowest grade which it purchases.

6.11 Publicly Displayed Menu

Prices for each item sold in the facility shall be conspicuously displayed to the satisfaction of the Chief Administrative Officer as to information given, design, type, size, style, color, and all other specifics. Said prices shall not exceed the approved prices for said items. If, in addition to any publicly displayed menu, Concessionaire provides individual menus for customers, or places price markers on item displays, said prices shall not exceed the approved prices for said items.

6.12 Amendments May Be Required

The Chief Administrative Officer may re-evaluate the selection of menu and other items during the term. The Chief Administrative Officer's determination that the selection offered is inadequate, or that any price is excessive, or that the quality or quantity of any item is deficient, shall be conclusive. Concessionaire may meet and confer with the Chief Administrative Officer regarding such matters.

6.13 Removal of Objectionable Goods and Services

Concessionaire shall immediately remove or withdraw from sale any goods or services which may be found objectionable to employees, public welfare or by the Chief Administrative Officer, following receipt of written notification therefor.

6.14 Sanitation

No offensive matter or refuse or substance containing an unnecessary, unreasonable or unlawful fire hazard or material detrimental to the public health, shall be permitted or remain on the concession premises, and Concessionaire shall prevent any accumulation thereof from occurring. Concessionaire shall, at all times keep the kitchen, dish room, serving line, equipment and materials located thereon sanitary and free from rubbish, refuse, food scraps, garbage, dust, dirt, flies and other insects, rodents and vermin. All apparatus, appliances, utensils, devices, equipment and piping used by Concessionaire shall be constructed so as to facilitate the cleaning and inspection thereof and shall be thoroughly and properly cleaned after each period of use with hot water and suitable soap, detergents and sterilizing agents and shall be rinsed by flushing with hot water. All trays, dishes, china, crockery, glassware, cutlery and other equipment of such type shall be cleaned by Concessionaire immediately after using the same and shall be kept clean until reused. Floors shall be cleaned by Concessionaire of all food and beverage spilled thereon. Concessionaire shall provide and pay for regular fumigation service. In addition, Concessionaire shall at all times maintain an "A" rating as determined by the Los Angeles County Health Department.

The foregoing notwithstanding, County shall assist in maintaining the sanitation required herein by providing for the collection of all refuse and payment of all charges for the removal thereon.

6.15 Security Devices

Concessionaire may provide any legal devices, installations, or equipment designed for the purpose of protecting the concession premises from theft, burglary or vandalism, provided written approval for installation is first obtained from the Chief Administrative Officer. All purchases and installations thereof shall be at Concessionaire's expense.

6.16 Safety

Concessionaire shall immediately correct any unsafe condition at the concession premises, as well as any unsafe practices occurring thereon. Concessionaire shall obtain emergency medical care for any member of the public who is in need thereof, because of illness or injury occurring on the concession premises. Concessionaire shall cooperate fully with County in the investigation of any accidental injury or death occurring on the concession premises, including a prompt report thereof to the Chief Administrative Officer.

6.17 Trade Fixtures

Concessionaire shall provide all equipment listed in the Section 10 Exhibits, cash registers, and anything else necessary for the satisfactory operation of the concession, and shall repair, maintain and replace said equipment, as is reasonably necessary. Any additional supplies needed shall be provided by Concessionaire including expendable items such as flatware, dishes, trays, glasses, cooking utensils, employee uniforms, condiment dispensers, and decorative items required for the proper operation of the concession as determined by the Chief Administrative Office. Ownership of all improvements and equipment, except expendable items, shall vest in County at the end of the term of the contract.

6.18 Habitation

The concession premises shall not be used for human habitation.

6.19 Prevailing Wages

To the extent that this concession involves the full-time employment by Concessionaire of dishwashers, cooks, waiters, waitresses, busboys, servers and cashiers necessary for the proper performances by Concessionaire of the obligations imposed by this concession agreement, Concessionaire agrees that the per diem wages paid to paid personnel shall not be less than the prevailing rate of per diem wages in the locality in which this concession is located for each classification or type of employee provided at least 50 percent of the employees in the classification in the locality are covered by a collective bargaining agreements. In the event no collective bargaining agreements exist in the locality in which this concession is located, the prevailing wage shall be determined by a survey of job positions comparable to those in the employ of the Concessionaire, which survey shall be undertaken by the Chief Administrative Officer or his designee. As used in this paragraph, the term locality shall be deemed to mean the greater Los Angeles area. As used in this paragraph, the term per diem wages shall be deemed to include employer payments of health and welfare, pension, vacation, paid holidays and similar purposes. Concessionaire shall keep an accurate record showing the per diem wage to each classification of employee personnel on the premises and said records shall be open to inspection at all reasonable hours by agents of the County. This requirement is applicable only to Concessionaire exempted from the provisions of the Living Wage Ordinance.

6.20 Vacation Benefits

Concessionaire shall provide a minimum of two weeks paid vacation for each full-time employee. Full-time employees are those who work a minimum of 35 hours per week for 50 weeks.

6.21 Merchandise

Concessionaire shall provide and maintain the necessary inventory of concession merchandise required to meet the needs of the public therefore. All food and beverages sold or kept for sale by Concessionaire shall be first class in quality, wholesome and pure, and shall conform to federal, state and County food laws, ordinances and regulations in all respects. No adulterated, misbranded or impure articles shall be sold or kept for sale by Concessionaire, and all merchandise kept on hand by Concessionaire shall be stored and handled with due regard for sanitation. In the event food is below first class, the Chief Administrative Office shall have the right to order the improvement of the quality of any food kept or offered for sale.

6.22 Additional Concessionaire Responsibilities

The Concessionaire further agrees to the following:

1. Provide a premium coffee choice(s).
2. Healthy food choice selections daily.
3. Grab and go food selections.
4. Scattered food service stations to improve traffic flow.
5. Professional signage.
6. Provide a suggestion box.
7. Post menu on County web site.
8. Post the weekly menu and distribute copies to key staff as directed.
9. Provide a Hispanic and Asian food choice daily.
10. Provide theme meals on holidays and occasional promotions.
11. Provide a minimum 5 week menu cycle.
12. Provide discounted meal choices for employees.
13. Provide cabinet covered trash receptacles.
14. Provide a minimum of two POS cash registers.
15. Repaint throughout and decorate dining room.
16. Include hot dogs and pizza daily in menu.
17. Provide new drop lighting, if funds allow.
18. Refurbish/Replace existing Formica serving counters and salad bar, if funds allow.

7. MAINTENANCE AND REPAIRS

7.01 Concessionaire shall be responsible for maintaining the concession premises in good and substantial repair and condition, and in compliance therewith shall perform all repairs to or replacement of all improvements and equipment including those appliances, furniture, fixtures and equipment owned by Concessionaire. In addition to this general requirement, Concessionaire shall perform any and all repairs required for the maintenance thereof in compliance with all laws applicable thereto, replace broken window glass, repair/replace exposed plumbing and electrical and lighting fixtures, clearing of clogged waste lines and replacement of broken or damaged doors. The County is to maintain and repair central hot water, heating and air conditioning systems, unexposed electrical and plumbing and replace interior light bulbs and fluorescent tubes. If the drains require cleaning more than once per month and it is determined by the County that is through no fault of the Concessionaire, the County will be responsible for the additional cleaning. The foregoing notwithstanding, Concessionaire shall be responsible for repair and/or replacement of all improvements and equipment thereon damaged and/or destroyed by the negligent and/or willful acts and omissions of the employees, agents, suppliers and/or contractors of Concessionaire. All maintenance shall be commenced within thirty (30) days of the need therefor and diligently prosecuted to completion of same, except where the state of disrepair is such that an emergency or hazard is created thereby in which event there shall be an immediate correction thereof. Either party may cure the default of the other party hereto with respect to the maintenance obligations assumed herein, and upon performance thereof shall acquire a right of reimbursement therefrom for the actual costs of same, including, but not limited to, the cost of labor, materials and equipment furnished in the correction thereof, provided there is prior mutual agreement between the Chief Administrative Office and Concessionaire upon the nature and scope of the work to be performed and the costs to be incurred therein.

8. DEMAND FOR REIMBURSEMENT

8.01 Any demand of County under section 7 for reimbursement hereunder shall be satisfied by Concessionaire through payment of the sums deposited with County as security for faithful performance, or pro-rated monthly installment payments over the remaining term of the agreement, commencing with the month next succeeding the date of completion of the maintenance performed. Any demand of Concessionaire for reimbursement hereunder shall be satisfied by County through a credit against the monthly rental obligation of Concessionaire, commencing with the month next succeeding the date of completion of the maintenance performed and for each and every other month of the remaining term of the agreement, until a total credit has been provided up to the actual costs of cure or the rental reserved over said remaining term. County and Concessionaire waive all rights to payment on their respective rights to reimbursement for the actual costs of cure of the default of the other with respect to the maintenance obligations assumed herein, except in the manner and amounts heretofore provided.

9. UTILITIES

9.01 The County shall provide and pay for all necessary utilities excluding telephones. The telephone number shall be placed in the name of the Concessionaire and shall not be transferable to any other location. Concessionaire waives any and all claims against County for compensation for loss of damage caused by a defect, deficiency or impairment of any utility system, water supply system, drainage system, waste system, heating or gas system, electrical apparatus or wires serving the concession premises.

10. REQUIRED CONSTRUCTION

10.01 The Concessionaire shall improve the area and furnish equipment in an amount not less than \$50,000 as per the "Equipment List" attached hereto and incorporated herein and marked as Exhibit "A" with floor plan marked as Exhibit "B". Title to the equipment, furnishings and remodeled areas and items will vest with the County at the termination, surrender or vacation of the concession granted, unless the County makes demand for its removal 90 days thereto. Prior to commencement of construction, Concessionaire shall obtain approval of all plans and specifications for any improvements to be constructed upon the demised premises from the County Building and Safety, Fire Department, Chief Administrative Officer, and other regulatory agencies. No modification of said plans, specifications or improvements shall be made by Concessionaire without approval thereof by these agencies. Concessionaire further agrees that final work is subject to the approval of the Chief Administrative Officer in addition to the other regulatory agencies having proper jurisdiction.

10.02 Accordingly, Concessionaire shall within 21 days of the commencement of the term provided herein, cause preliminary plans and specifications to be prepared and submitted for approval of the Chief Administration Officer; and within 14 days following the approval thereof, cause final plans and specifications and full cost estimates to be prepared and submitted for approval by said officer. Upon approval thereof said final plans and specifications shall be incorporated herein by this reference.

10.03 Concessionaire shall, within 7 days after approval of the final plans and specifications as provided herein, and upon County's posting of the construction site with a notice of non-responsibility prior to commencement of construction of the above-described improvements, diligently prosecute and complete the same.

10.04 No modification of said final plans and specifications or of said improvements shall be made by Concessionaire without approval therefore by the Chief Administrative Officer.

10.05 Concessionaire agrees that County may have on the site at any time during the construction period an inspector who shall have the right of access to the concession premises and the construction work. Concessionaire shall, at the commencement of the construction work, notify the Chief Administrative Officer in writing of the identity, place of business and telephone number of Concessionaire's on-the-job representative. Said representative shall be Concessionaire's primary consultant for the inspector of the County.

10.06 The parties agree that any delay in the construction due to fire, earthquake, war, labor dispute or other events beyond the control of Concessionaire shall extend the time in which said construction must be completed by the length of time of such delay.

10.07 Concessionaire shall construct, perform complete and maintain all construction covered by this agreement in a good and workmanlike manner and with high quality material, and shall furnish all tools, equipment, labor and material necessary to perform and complete the same, and hereby expressly warrants that all said materials and workmanship will be free from defects. Initial installations with respect to electrical, gas and plumbing will be approved by appropriate County Building Inspector and provided at Concessionaire's expense.

10.08 It is understood that the construction required herein may, at the discretion of Concessionaire, be constructed in phases, each phase being separated from the other by a period of time to be determine by Concessionaire. However, the nature of the construction to be performed in each phase and the time interval between phases shall be subject to approval by the Chief Administrative Officer. In no event shall the phasing of the construction required extend the completion beyond the date heretofore provided. Should the required construction be phased as herein provided, diligent prosecution thereof shall require commencement of each phase on or before the date selected for commencement thereof. However, all work shall be completed within 120 days of the beginning date fo this contract unless construction required extends the contract.

10.09 Concessionaire shall coordinate his work schedule with other contractors to avoid disruption and delay in completion of the project. In addition, Concession shall require his architect to oversee the construction to ensure that it is in accordance with approved construction plans for the food service facility.

11. OWNERSHIP OF IMPROVEMENTS

11.01 Concessionaire shall have the rights to the ownership of the improvements installed by Concessionaire as part of this agreement, subject to the conditions provided in Section 11.01 through 11.05.

11.02 Installation Costs

All improvements, decor and equipment shall be furnished, supplied, installed and constructed by Concessionaire at Concessionaire's sole cost and expense.

11.03 Ownership During Term

Federal investment tax credit applicable to concession improvements shall belong to Concessionaire. Title to all furniture, furnishings, removable fixtures and supplies, furnished by the Concessionaire, shall remain their property during the term of the concession granted and until terminated, vacated or surrendered, after which it shall revert to the County.

11.04 Ownership Upon Termination

If the Concessionaire's occupancy is terminated by the County, the County will reimburse Concessionaire for the unamortized net book value of the proposed and completed improvements and approved equipment based upon a five year straight-line depreciation, with no residual value, provided the Concessionaire has obtained all necessary approvals for their construction, upon which its depreciation began, and also provided that architectural and design costs do not exceed 10 percent of the cost of the improvements and all said costs are properly supported and made available for audit. All said costs must be direct costs paid by Concessionaire to independent contractors and suppliers for work actually performed on said premises, materials and equipment furnished or professional services rendered. Costs associated with Concessionaire's employees shall be included in the calculation of these costs. To become reimbursable, the Concessionaire shall, at its expense, provide the County with "as-built" drawings and paid invoices, showing material and labor costs involved in the construction of the approved structural improvement and approved equipment provided within 90 days of the date that the improvement was put into service. Straight line depreciation shall begin on the first day of the month in which the improvement was placed into service. The Chief Administrative Officer may require Concessionaire to remove any or all of its removable improvements. Title to all improvements to which Concessionaire is reimbursed or which have been depreciated shall thereupon vest in County. In no case shall said amount exceed that which is stated in Section 10.01.

11.05 Ownership Upon Expiration

Upon expiration of this agreement, ownership of all improvements and equipment constructed or installed upon the premises shall vest in County, without compensation to Concessionaire.

12. PERFORMANCE BONDS

12.01 During any period of construction hereby required or otherwise authorized, Concessionaire shall provide a performance bond in an amount of not less than 100 percent of the costs for the construction to be performed as estimated by the Chief Administrative Officer, payable to the County of Los Angeles and executed by a corporate surety authorized to conduct business as a surety in the State of California and acceptable to the Chief Administrative Office. The condition of the bond shall be such that if Concessionaire shall complete the required construction specified herein in accordance with approved plans and specifications and received permanent certificate of occupancy for the building, then surety shall no longer be bound thereon. Said bond shall be maintained in full force and effect by Concessionaire until said works of improvement have been accepted by the Chief Administrative Officer.

12.02 During any period of construction hereby required or otherwise authorized, Concessionaire shall provide a performance bond in an amount of not less than 100 percent of the costs for the construction to be performed as estimated by the Chief Administrative Officer, payable to the County of Los Angeles and executed by a corporate surety authorized to conduct business as a surety in the State of California and acceptable to the Chief Administrative Officer. The payment bond shall inure to the benefit of all claimants as said term is presently defined by Section 3085 of the California Civil Code, or may hereafter be amended, so as to give such claimants a right of action to recover thereon in any suit brought to foreclose the liens provided for in this Title 15 of Part 4, of Division 3 of the California Civil Code or in a separate suit brought upon the bond. The condition of the bond shall be such that if Concessionaire shall well and truly pay, or cause to be paid, all claims for labor, materials, appliances, teams, or power, or either or all, performed, furnished, or constructed in connection with said works of improvements, then surety shall no longer be bound thereon. Said bond shall be maintained in full force and effect until all claims for labor, materials, appliances, teams, or power have been paid, as evidenced by release of mechanic's liens by all claimants.

12.03 The Chief Administrative Officer may accept in lieu of the bonds heretofore described, the performance and payment bonds of corporations duly authorized to issue surety bonds by the State, naming as principal a licensed Contractor employed by Concessionaire to contract works of improvement on the concession premises, provided each bond is in an amount equal to the percentage herein provided above; names County as an additional obligee; contains terms and conditions substantially similar to the requirements heretofore specified; and is satisfactory as to sufficiency and liability of sureties named thereon.

12.04 Concessionaire shall have the option to deposit with the County cash or United States Government securities in all respects satisfactory to the Chief Administrative Officer in lieu of the surety obligations herein required. Said cash or securities shall be deemed deposited with the County to secure full and satisfactory performance of the principal obligations heretofore described for which surety is required, and shall be released upon satisfactory performance thereof, as evidenced by certification of completion by the Chief Administrative Officer and release of mechanic's liens by all claimants. In lieu thereof, Concessionaire may deposit the required amount in a bank whose deposits are insured under the Federal Deposit Insurance Act (12 U.S.C. 1811 et seq.), or a savings and loan whose deposits are insured under Title 4 of the National Housing Act (12 U.S.C. 1724 et seq.), provided the account is made payable to the County on demand and the certificate of deposit is delivered to the Chief Administrative Officer. Concessionaire shall be entitled to all interest on the deposit and the return of the Certificate upon satisfactory performance as heretofore defined.

13. SECURITY DEPOSIT

13.01 Prior to the commencement of this agreement, Concessionaire shall pay to the Auditor-Controller the sum of \$5,000. In lieu thereof, Concessionaire may deposit said amount in a commercial bank or savings and loan association acceptable to the Auditor-Controller, provided that a certificate of deposit is delivered to said Chief Administrative Officer giving County the right to withdraw any or all of said amount during the term of this agreement. Concessionaire shall be entitled to any and all interest accruing from said certificate of deposit.

13.02 Said sum shall serve as security for faithful performance of all covenants, promises and conditions assumed by Concessionaire herein, and may be applied in satisfaction or mitigation of damages arising from a breach thereof, including, but not limited to, delinquent payments, correction of maintenance deficiencies, loss of revenue due to abandonment, vacation or discontinuance of concession operations; discrimination; refunding of deposits for scheduled future events which are required to be canceled due to abandonment, vacation or discontinuance of concession operations, completion of construction and payment of mechanic's liens. Application of amounts on deposit in satisfaction or mitigation of damages shall be without prejudice to the exercise of any other rights provided herein or by law to remedy a breach of this agreement.

13.03 In the event any or all of said amount is applied in satisfaction or mitigation of damages, Concessionaire shall immediately deposit such sums as are necessary to restore the security deposit to the full amount required hereunder.

13.04 Said sum shall be returned to Concessionaire upon termination of this agreement less any amounts that may be withheld therefrom by the County as heretofore provided.

14. HOLD HARMLESS AND INDEMNIFICATION

14.01 Concessionaire shall indemnify, defend and hold harmless County, and its Special Districts, elected and appointed officers, employees, and agents from and against any and all liability, including but not limited to demands, claims, actions, fees, costs, and expenses (including attorney and expert witness fees), arising from or connected with Concessionaire's acts and/or omissions arising from and/or relating to this agreement by Concessionaire or the agents, servants and employees thereof, including but not limited to, damages caused by negligence, creation or maintenance of a dangerous condition of property, breach of express or implied warranty of product, defectiveness of product, or intentional infliction of harm; nonpayment for labor, materials, appliances, teams or power, performed on, or furnished or contributed to the concession premises; infringement of a patent or copyright or disclosure of a trade secret; violation of State and Federal antitrust laws; and violation of Federal and State civil rights laws.

14.02 This promise of indemnity shall extend to all the covered liability, expenses, and claims notwithstanding that the act, omission, or condition giving rise thereto is proximately caused by the active or passive negligence of the County relating to the use of the concession premises, the concession operations or services, acts or omissions relating to the enforcement of this agreement, or a dangerous or defective condition of the concession premises. Concessionaire's duty to indemnify the County shall survive the expiration or other termination of this agreement.

15. INSURANCE

General Insurance Requirements: Without limiting Concessionaire's indemnification of County and during the term of this agreement, Concessionaire shall provide and maintain, and shall require all of its sub-contractors to maintain, the following programs of insurance specified in this agreement. Such insurance shall be primary to and not contributing with any other insurance or self-insurance programs maintained by County, and such coverage shall be provided and maintained at Concessionaire's own expense.

A. **Evidence of Insurance:** Certificate(s) or other evidence of coverage satisfactory to County shall be delivered to the Chief Administrative Office prior to commencing services under this agreement. Such certificates or other evidence shall:

(1) Specifically identify this agreement.

(2) Clearly evidence all coverages required in this agreement.

(3) Contain the express condition that County is to be given written notice by mail at least thirty (30) days in advance of cancellation for all policies evidenced on the certificate of insurance.

(4) Include copies of the additional insured endorsement to the commercial general liability policy, adding the County of Los Angeles, its Special Districts, its officials, officers and employees as insureds for all activities arising from this agreement.

(5) Identify any deductibles or self-insured retentions for County's approval. The County retains the right to require Concessionaire to reduce or eliminate such deductibles or self-insured retentions as they apply to County, or, require Concessionaire to provide a bond guaranteeing payment of all such retained losses and related costs, including, but not limited to, expenses or fees, or both, related to investigations, claims administrations, and legal defense. Such bond shall be executed by a corporate surety licensed to transact business in the State of California.

B. **Insurer Financial Ratings:** Insurance is to be provided by an insurance company acceptable to the County with an A.M. Best rating of not less than A:VII, unless otherwise approved by County.

C. **Failure to Maintain Coverage:** Failure by Concessionaire to maintain the required insurance, or to provide evidence of insurance coverage acceptable to County, shall constitute a material breach of the contract upon which County may immediately terminate or suspend this agreement. County, at its sole option, may obtain damages from Concessionaire resulting from said breach. Alternatively, County may purchase such required insurance coverage, and without further notice to Concessionaire, County may deduct from sums due to Concessionaire any premium costs advanced by County for such insurance.

D. **Notification of Incidents, Claims or Suits:** Concessionaire shall report to County:

(1) any accident or incident relating to services performed under this agreement which involves injury or property damage which may result in the filing of a claim or lawsuit against Concessionaire and/or County. Such report shall be made in writing within 24 hours of occurrence.

(2) any third party claim or lawsuit filed against Concessionaire arising from or related to services performed by Concessionaire under this agreement.

(3) any injury to a Concessionaire employee which occurs on County property. This report shall be submitted on a County "Non-employee Injury Report" to the County contract manager.

(4) any loss, disappearance, destruction, misuse, or theft of any kind whatsoever of County property, monies or securities entrusted to Concessionaire under the terms of this agreement.

E. **Compensation for County Costs:** In the event that Concessionaire fails to comply with any of the indemnification or insurance requirements of this agreement, and such failure to comply results in any costs to County, Concessionaire shall pay full compensation for all costs incurred by County.

F. **Insurance Coverage Requirements for Subcontractors:** Concessionaire shall ensure any and all subcontractors performing services under this agreement meet the insurance requirements of this agreement by either:

(1) Concessionaire providing evidence of insurance covering the activities of subcontractors, or

(2) Concessionaire providing evidence submitted by subcontractors evidencing that subcontractors maintain the required insurance coverage. County retains the right to obtain copies of evidence of subcontractors insurance coverage at any time.

G. **Insurance Coverage Requirements:**

(1) **General Liability** insurance (written on ISO policy form CG 00 01 or its equivalent) with limits of not less than the following:

For Concessionaires Who Will Operate at this single County Location Only, and Have No Operations at Other Non-County Locations:

General Aggregate:	\$2 million
Products/Completed Operations Aggregate:	\$1 million
Personal and Advertising Injury:	\$1 million
Each Occurrence:	\$1 million

For Concessionaires Who Will Operate at this County Location, and Also Operate at One or More Other Locations (County and/or Non-County):

General Aggregate:	\$4 million
Products/Completed Operations Aggregate:	\$2 million
Personal and Advertising Injury:	\$2 million
Each Occurrence:	\$2 million

(2) **Automobile Liability** insurance (written on ISO policy form CA 00 01 or its equivalent) with a limit of liability of not less than \$1 million for each accident. Such insurance shall include coverage for all “owned”, “hired” and “non-owned” vehicles, or coverage for “any auto”.

(3) **Workers Compensation and Employers’ Liability** insurance providing workers compensation benefits, as required by the Labor Code of the State of California or by any other state, and for which Concessionaire is responsible. If Concessionaire’s employees will be engaged in maritime employment, coverage shall provide workers compensation benefits as required by the U.S. Longshore and Harbor Workers' Compensation Act, Jones Act or any other federal law for which Concessionaire is responsible.

In all cases, the above insurance also shall include Employers’ Liability coverage with limits of not less than the following:

Each Accident:	\$1 million
Disease - policy limit:	\$1 million
Disease - each employee:	\$1 million

(4) **Property Coverage**: Such insurance shall be endorsed naming the County of Los Angeles as loss payee, provide deductibles of no greater than 5% of the property value, and shall include:

Personal Property: Automobiles and Mobile Equipment - Special form ("all risk") coverage for the actual cash value of County-owned or leased property and Concessionaire's and its employee's owned or leased vehicles and mobile equipment.

Real Property and All Other Personal Property - Special form ("all-risk") coverage for the full replacement value of County-owned or leased property.

16. TAXES AND ASSESSMENTS

16.01 The property conveyed herein shall be subject to possessory interest taxation or assessment thereon, and in the event thereof, Concessionaire shall pay before delinquency all lawful taxes, assessments, fees or charges which at any time may be levied by the State, County, City or any other tax or assessment-levying body upon the concession premises and any improvements located thereon.

16.02 Concessionaire shall also pay all taxes, assessments, fees and charges on goods, merchandise, fixtures, appliances and equipment owned or used thereon.

17. TRANSFERS

17.01 In entering into this agreement, County has specifically bargained for the provision of services and other consideration due it by the named Concessionaire. Accordingly, no transfer of this concession agreement, or any part thereof, is allowed. Any transfer of this agreement, whether by sale, assignment, sublease or otherwise is absolutely prohibited. In the event that Concessionaire attempts to make such a prohibited transfer, the attempted transfer shall be void and of no effect. Furthermore, County may, at its sole option, treat the attempted transfer as a material breach of this agreement and terminate this agreement.

A transfer under this section shall include a change in the beneficial ownership of Concessionaire (other than a transfer to a family trust) of more than fifty percent (50%).

17.02 Each and all of the provisions, agreements, terms, covenants and conditions herein contained to be performed by Concessionaire shall be binding upon any transferee thereof.

17.03 The concession shall not be transferable by testamentary disposition of the state laws of interstate succession, as the rights, privileges, and use conferred by this agreement shall terminate prior to the date for expiration thereof in the event of the death of Concessionaire occurring within the term herein provided. Additionally, neither this agreement nor any interest therein shall be transferable in proceedings in attachment or execution against Concessionaire, or in voluntary or involuntary proceedings in bankruptcy or insolvency or receivership taken by or against Concessionaire, or by any process of law including proceedings under Chapter X or XI of the Bankruptcy Act.

17.04 Shareholders or partners of Concessionaire may transfer, sell, exchange, assign or divest themselves of any interest they may have therein. However, in the event any such sale, transfer, exchange, assignment or divestment is affected in such a way as to give majority control of Concessionaire to any persons, corporations, partnership or legal entity other than the majority controlling interest therein at the time of the execution of this agreement, approval thereof shall be required. Consent to any such transfer shall be refused if the Chief Administrative Officer finds that the transferee is lacking in experience, financial ability to conduct the concession, the proposed sale is an attempt to circumvent section 17.01 above, or for other just cause as determined by the Chief Administrative Officer.

17.05 The prohibition herein contained shall not be applicable with respect to transfers of this agreement arising from the exercise of a power of sale or judicial foreclosure pursuant to the terms and conditions of a hypothecation or mortgage previously approved by the Chief Administrative Officer.

18. NON-DISCRIMINATION

18.01 Concessionaire certifies and agrees that all persons employed thereby or the affiliates, subsidiaries or holding companies thereof are and shall be treated equally without regard to or because of race, religion, ancestry, national origin or sex, and in compliance with all federal and state laws prohibiting discrimination in employment, including, but not limited to, the Federal Civil Rights Act of 1964; the Unruh Civil Rights Act; and Cartwright Act; and the State Fair Employment Practices Act.

18.02 Concessionaire certifies and agrees that sub-Concessionaires, bidders, and vendors thereof are and shall be selected without regard to or because of race, religion, ancestry, national origin or sex.

18.03 All employment records shall be open for inspection and reinspection at any reasonable time during the term of this agreement for the purpose of verifying the practice of nondiscrimination by Concessionaire in the areas heretofore described.

18.04 The sum of TWO-THOUSAND DOLLARS (\$2,000.00) is hereby agreed upon as the amount of damages that will be sustained by the County for breach of the promises on nondiscrimination herein contained. Said amount has been set by the parties hereto in recognition of the difficulty in fixing actual damages arising from a breach thereof.

19. CANCELLATION

19.01 Upon the occurrence of any one or more of the events of default hereinafter described, this agreement shall be subject to cancellation. As a condition precedent thereto, the Chief Administrative Officer shall give Concessionaire ten days notice by registered or certified mail of the date set for cancellation thereof; the grounds therefor; and that an opportunity to be heard thereon will be afforded on or before said date, if request is made thereafter.

19.02 Upon cancellation, County shall have the right to take possession of the concession premises, including all improvements, equipment, and inventory located thereon, and use for the purpose of satisfying or mitigating all damages arising from a breach of this agreement.

19.03 Action by County to effectuate a cancellation and forfeiture of possession shall be without prejudice to the exercise of any other rights provided herein or by law to remedy a breach of this agreement.

19.04 Any trustee, beneficiary, mortgage or lender under hypothecation or mortgage previously approved by the Chief Administrative Officer shall have the right at any time during the term of this agreement, to undertake any and all actions that may be required in order to prevent a cancellation of this agreement and a forfeiture of the concession. Accordingly, the Chief Administrative Officer shall send a copy of any intended cancellation of this agreement to any of the aforementioned parties whose security would be affected thereby and upon request thereof for postponement, extend the date set therefor by such time as the Chief Administrative Officer finds reasonable in order to allow said parties to correct the grounds therefor or to provide a new Concessionaire under a power of sale or foreclosure contained in the hypothecation or mortgage, who upon transfer thereto shall become responsible for the correction therefor within such time as may be allowed by the Chief Administrative Officer.

20. EVENTS OF DEFAULT

20.01 The abandonment, vacation or discontinuance of operations of the concession premises for more than 48 consecutive hours.

20.02 The failure of Concessionaire to punctually pay or make the payments required hereunder when due, where the delinquency continues beyond ten days following written notice for payment thereof.

20.03 The failure of Concessionaire to operate in the manner required by this agreement, where such failure continues for more than ten days after written notice from the Chief Administrative Officer to correct the conditions therein specified.

20.04 The failure to maintain the concession premises, the equipment and the improvements constructed thereon in the state of repair required hereunder, and in a clean, sanitary, safe and satisfactory condition where such failure continues for more than 10 days after written notice from the Chief Administrative Officer to correct the condition.

20.05 The failure of Concessionaire to keep, perform, and observe all other promises, covenants, conditions and agreements set forth in this agreement, where such failure continues for more than ten days after written notice from the Chief Administrative Officer for correction thereof, provided that where fulfillment of such obligation requires activity over a period of time and Concessionaire shall have commenced to perform whatever may be required to cure the particular default within 10 days after such notice and continues such performance diligently, said time may be waived in the manner and to the extent allowed by the Chief Administrative Officer.

20.06 The filing of a voluntary petition in bankruptcy; the appointment of any receiver of Concessionaire's assets; the making of a general assignment for the benefit of creditors; a petition or answer seeking an arrangement for the reorganization of Concessionaire under any Federal Reorganization Act, including petitions or answers under Chapters X or XI of the Bankruptcy Act; the occurrence of any act which operates to deprive Concessionaire permanently of the rights, powers and privileges necessary for the proper conduct and operations of the concession; the levy of any attachment or execution which substantially interferes with attachment or execution is not vacated, dismissed, stayed or set aside within a period of 60 days.

20.07 Determination by the Chief Administrative Officer, the State Fair Employment Commission, or the Federal Equal Employment Opportunity Commission of discrimination, or having been practiced by Concessionaire in violation of State or Federal laws thereon.

20.08 Transfer of the majority controlling interest of Concessionaire to persons other than those who are in control at the time of the execution of this agreement without approval thereof by the Chief Administrative Officer.

21. DESTRUCTION OF CONCESSION PREMISES

21.01 In the event the concession premises shall be totally or partially destroyed by fire, earthquake, flood, storms, war, insurrection, riot, public disorder, casualty, County shall either restore the premises or terminate this agreement.

21.02 Should County elect to restore the premises, this agreement shall continue in full force and effect except that the payments to be made by Concessionaire shall be abated or other relief afforded to the extent that the Chief Administrative Officer may determine the damage or restoration interferes with the concession.

21.03 Concessionaire agrees to cooperate with County in the restoration of the concession premises by vacating and removing therefrom all items of inventory, trade fixture, equipment and furnishings for such periods as are required for the restoration thereof. Concessionaire further agrees to cooperate in the determination of the abatement and/or other relief to be provided by furnishing all information requested related to the concession, and permitting examination and audit of all accounting records kept in connection with the conduct thereof.

21.04 The aforesaid provisions of this section shall also be applicable to a total or partial destruction of the facilities by the aforementioned causes, except that the relief to be provided shall be based upon the extent the Chief Administrative Officer may determine that the reduction in the public's use of the facilities, due to the partial or total closure thereof, has affected the concession.

21.05 Concessionaire agrees to accept the remedy heretofore provided in the event of a destruction of the concession premises, and hereby waives any or all additional rights and remedies for relief or compensation that are presently available or may hereinafter be made available under the laws and statutes of this state.

22. CONSTRUCTION BY COUNTY AFFECTING CONCESSION PREMISES

22.01 In the event County shall construct or cause to be constructed a new facility for the concession, this agreement shall continue in full force and effect, except that the payment to be made by Concessionaire will be abated and/or relief afforded to the extent that the Chief Administrative Officer may determine the construction interferes with the concession.

22.02 Concessionaire agrees to cooperate with County in the event the construction affects the concession premises by vacating and removing therefrom all items of inventory, trade fixtures, equipment and furnishings for such periods as are required by the construction of the new facilities. Concessionaire further agrees to cooperate in the determination of the abatement or other relief to be provided by furnishing all information requested relative to the concession and permitting examination and audit of all accounting records kept in connection with the conduct thereof.

22.03 The aforementioned provisions of this section shall also be applicable in the event of performance of work on the Concessionaire's premises requires a partial or total closure thereof, except that the abatement or other relief to be provided shall be based upon the extent the Chief Administrative Officer may determine that the reduction in the public's use of the facility due to the partial or total closure thereof, has affected the concession.

22.04 Concessionaire agrees to accept the remedy heretofore provided in the event of construction upon the concession premises and hereby waives any or all additional rights and remedies for relief or compensation that are presently available or may be made available hereinafter under the laws and statutes of this state.

23. WAIVER

23.01 Any waiver by County of any breach of any one or more of the covenants, conditions, terms and agreements herein contained shall not be construed to be a waiver of any subsequent or other breach of the same or of any other covenant, condition, term or agreement herein contained, nor shall failure on the part of County to require exact, full and complete compliance with any of the covenants, conditions, terms or agreements or estopping County from enforcing the full provisions thereof.

23.02 No delay, failure or omission of County to re-enter the concession premises or to exercise any rights, power, privilege or option, arising from any default, nor any subsequent acceptance of payment then or thereafter accrued shall impair any such right, power, privilege or option, or acquiescence in such default or as a relinquishment of any right.

23.03 No notice to Concession shall be required to restore or revive "time of the essence" after the waiver by County of any default.

23.04 No option, right, power, remedy or privilege of the County shall be construed as being exhausted by the exercise thereof in one or more instances. The rights, powers, options and remedies given the County by this agreement shall be cumulative.

24. RIGHT OF ENTRY

24.01 Any officer or employee of the County may enter upon the concession premises at any and all reasonable times for the purpose of determining whether or not Concessionaire is complying with the terms and conditions thereof, or for any other purpose incidental to the rights of the County.

24.02 In the event of an abandonment, vacation or discontinuance of concession operations for a period in excess of 48 hours, Concessionaire hereby irrevocably appoints the County as an agent for continuing operation of the concession granted herein, and in connection therewith authorizes the officers and employees thereof to (1) take possession of the concession premises, including all improvements, equipment and inventory thereon; (2) remove any and all persons or property on said premises and place any such property in storage for the account of and at the expense of Concessionaire; (3) sublease or license the premises; and (4) after payment of all expenses of such subleasing or licensing apply all payment realized therefrom to the satisfaction or mitigation of all damages arising from Concessionaire's breach of this agreement. Entry by the offices and employees of the County upon the concession premises for the purpose or exercising the authority conferred hereon as agent of Concessionaire shall be without prejudice to the exercise of any other rights provided herein or by law to remedy a breach of this concession agreement.

25. SURRENDER

25.01 Upon expiration of the term hereof, or cancellation thereof as herein provided, Concessionaire shall peaceably vacate the concession premises and any and all improvements located thereon and deliver up the same to County in a reasonable good condition, ordinary wear and tear excepted.

26. TERMINATION FOR IMPROPER CONSIDERATION

26.01 The County may, by written notice to Concessionaire, immediately terminate the right of Concessionaire to proceed under this agreement if it is found that consideration, in any form, was offered or given by Concessionaire, either directly or through an intermediary, to any County officer, employee or agent with the intent of securing the agreement or securing favorable treatment with respect to the award, amendment or extension of the agreement or the making of any determination with respect to the Concessionaire's performance pursuant to the agreement. In the event of such termination, the County shall be entitled to pursue the same remedies against Concessionaire as it could pursue in the event of default by the Concessionaire.

26.02 Concessionaire shall immediately report any attempt by a County officer or employee to solicit such improper consideration. The report shall be made either to the County manager charged with the supervision of the employee or to the County Auditor-Controller's Employee Fraud Hotline at (213) 974-0914 or (800) 544-6881.

26.03 Among other items, such improper consideration may take the form of cash, discounts, service, the provision of travel or entertainment, or tangible gifts.

27. LOBBYIST ORDINANCE

27.01 Concessionaire and each County lobbyist or County lobbying firm as defined in Los Angeles County Code Section 2.160.010, retained by Concessionaire, shall fully comply with the County Lobbyist Ordinance, Los Angeles County Code Chapter 2.160. Failure on the part of Concessionaire or any County lobbyist or County lobbying firm retained by Concessionaire to fully comply with the County Lobbyist Ordinance shall constitute a material breach of this agreement upon which the County may immediately terminate or suspend this agreement.

28. REFERRAL OF CURRENT AND FORMER COUNTY EMPLOYEES FOR EMPLOYMENT WITH CONCESSIONAIRE

28.01 Concessionaire shall accept referrals from County Human Resources of qualified current and former County employees for consideration of employment with Concessionaire. Such consideration for employment shall be limited to the vacancies in Concessionaire's staff needed to perform services under this agreement. If such referrals results in offers of employment such offers shall be made once, shall be in writing, shall indicate whether the position is full-time or part-time, and shall be valid for a period of 10 calendar days from the date the offer is made, unless such period is extended at Concessionaire's option. Such offers shall be for vacancies which occur in Concessionaire's staff, beginning with Board approval of this agreement and throughout the term of this agreement. Employment offers to such employees shall be under at least the same conditions and rates of compensation which apply to the other persons who are employed or may be employed by Concessionaire. Concessionaire shall maintain records of such offers to include a description of the position and duties, the rate of pay and fringe benefits, and whether the offer was accepted, rejected, or not responded to within the allocated time period. Such employees who are employed by Concessionaire under this paragraph shall not be discharged during the term of this agreement except for cause. At the time of any such discharge for cause, Concessionaire shall in writing notify Human Resources staff or other County staff which may be designated in writing by the Chief Administrative Officer. Notwithstanding any other provision of this agreement, the parties do not in any way intend that any persons shall acquire any rights as a third party beneficiary of this agreement.

29. COUNTY'S QUALITY ASSURANCE PLAN

29.01 The Chief Administrative Officer will evaluate Concessionaire's performance under this agreement on an annual basis. Such evaluation will include assessing Concessionaire's compliance with all contract terms and performance standards. Concessionaire's deficiencies which County determines are severe or continuing and that may place performance of the agreement in jeopardy if not corrected will be reported to the Board of Supervisors. The report will include improvement/corrective action measures taken by the County and Concessionaire. If improvement does not occur consistent with the corrective action measures, the County may terminate this agreement, or impose other penalties as specified in this agreement.

30. CONCESSIONAIRE'S WARRANTY OF ADHERENCE TO COUNTY'S CHILD SUPPORT COMPLIANCE PROGRAM

30.01 Concessionaire acknowledges that the County has established a goal of ensuring that all individuals who benefit financially from the County through County contracts are in compliance with their court-ordered child, family, and espousal support obligations in order to mitigate the economic burden otherwise imposed upon the County and its taxpayers.

30.02 As required by the County's Child Support Compliance Program (County Code Chapter 2.200) and without limiting Concessionaire's duty under this agreement to comply with all applicable provisions of law, Concessionaire warrants that it is in compliance and shall, during the term of this agreement, maintain compliance with employment and wage reporting requirements as required by the Federal Social Security Act (42 USC Section 653a) and California Unemployment Insurance Code Section 1088.55, and shall implement all lawfully served Wage and Earnings Withholding Orders or District Attorney Notices of Wage and Earnings Assignment for Child or Espousal Support, pursuant to Code of Civil Procedure Section 706.031 and Family Code Section 5246(b).

30.03 Within 30 calendar days of renewal or term extension amendment to this agreement of at least one year, Concessionaire shall submit to the County's District Attorney a completed Principal Owner Information Form (POI Form), incorporated herein by reference, along with certifications in accordance with the provisions of section 2.200.060 of the County Code, that: (1) the POI Form has been appropriately completed and provided to the DA with respect to Concessionaire's Principal Owners; (2) Concessionaire has fully complied with all applicable State and Federal reporting requirements relating to employment reporting for its employees; and (3) Concessionaire has fully complied with all lawfully served Wage and Earnings Assignment Orders and Notices of Assignment and will continue to maintain compliance. Such certification shall be submitted on the Child Support Compliance Program Certification (CSCPC), also incorporated herein by reference. Failure of Concessionaire to submit the CSCPC which includes certification that the POI Form has been submitted to County's DA shall represent a material breach of contract upon which County may immediately suspend or terminate this agreement.

31. TERMINATION FOR BREACH OF WARRANTY TO MAINTAIN COMPLIANCE WITH COUNTY'S CHILD SUPPORT COMPLIANCE PROGRAM

31.01 Failure of Concessionaire to maintain compliance with the requirements set forth in Concessionaire's Warranty of Adherence to County's Child Support Compliance Program shall constitute a default by Concessionaire under this agreement. Without limiting the rights and remedies available to County under any other provision of this agreement, failure to cure such default within 90 calendar days of written notice by County's District Attorney shall be grounds upon which the County may terminate this agreement.

31.02 Concessionaire shall immediately report any attempt by a County officer or employee to solicit such improper consideration. The report shall be made either to the County manager charged with the supervision of the employee or to the County Auditor-Controller's Employee Fraud Hotline at (213) 974-0914 or (800) 544-6881.

31.03 Among other items, such improper consideration may take the form of cash, discounts, service, the provision of travel or entertainment, or tangible gifts.

32. CONCESSIONAIRE'S ACKNOWLEDGMENT TO COUNTY'S CHILD SUPPORT ENFORCEMENT

32.01 Concessionaire acknowledges that the County places a high priority on the enforcement of child support laws and the apprehension of child support evaders. Concessionaire understands that it is the County's policy to encourage all County Concessionaires to voluntarily post County's "L.A.'s Most Wanted Delinquent Parents" poster in a prominent location at Concessionaire's place of business. The County's District Attorney will supply Concessionaire with the poster to be used.

33. INDEPENDENT CONTRACTOR

33.01 In performing the obligations hereunder, Concessionaire is engaged solely in the capacity of independent contractor, it being expressly understood that no relationship between the contracting parties hereto other than that of independent Concessionaire has been or is intended to be created. This concession agreement does not constitute and the parties hereto do not intend to create thereby a partnership or a joint venture, or a relationship of master and servant or principal and agent as it is mutually understood and agreed that the relationship created thereby and the construction of rights and duties thereunder is to be determined in accordance with the laws relating to owners and occupants of real property.

34. ENFORCEMENT

34.01 The Chief Administrative Officer shall be responsible for the enforcement and management of this agreement on behalf of the County and shall be assisted therein by those officers and employees of the County having duties in connection with the administration thereof.

34.02 In the event the County commences legal proceedings for the enforcement of this agreement or recovery of the premises used herein, Concessionaire does hereby agree to pay any sum which may be awarded to the County by the Court for attorney's fees and costs incurred in the action brought thereon.

35. GRATUITIES

35.01 It is improper for any County officer, employee or agent to solicit consideration, in any form, from a proposer with the implication, suggestion or statement that the proposer's provision of the consideration may secure more favorable treatment for the proposer in the award of the contract or that the proposer's failure to provide such consideration may negatively affect the County's consideration of the proposer's submission. A proposer shall not offer or give, either directly or through an intermediary, consideration, in any form, to a County officer, employee or agent for the purpose of securing treatment with respect to the award of the contract.

35.02 A proposer shall immediately report any attempt by a County officer, employee or agent to solicit such improper consideration. The report shall be made either to the County manager charged with the supervision of the employee or to the County Auditor-Controller's Employee Fraud Hotline at (213) 974-0914 or (800) 544-6861. Failure to report such a solicitation may result in the proposer's submission being eliminated from consideration.

35.03 Among other items, such improper consideration may take the form of cash, discounts, service, the provision of travel or entertainment, or tangible gifts.

36. CONCESSIONAIRE DEBARMENT

36.01 On January 11, 2000, the Los Angeles County Board of Supervisors adopted an ordinance for Determinations of Concessionaire Non-Responsibility and Concessionaire Debarment (Ordinance), Los Angeles County Code Chapter 2.202, which is applicable to all County contracts except to the extent applicable State and/or Federal laws are inconsistent with the terms of the Ordinance.

A. A responsible Concessionaire is a concessionaire who has demonstrated the attribute of trustworthiness, as well as quality, fitness, capacity and experience to the satisfactorily perform the contract. It is the County's policy to conduct business only with responsible concessionaires.

B. The Concessionaire is hereby notified that, in accordance with Chapter 2.202 of the County Code, if the County acquires information concerning the performance of the Concessionaire on this or other contracts which indicates that the Concessionaire is not responsible, the County, may, in addition to other remedies provided in the contract, debar the Concessionaire from bidding on County contracts for a specified period of time not to exceed 3 years and terminate any or all existing contracts the Concessionaire may have with the County.

C. The County may debar a Concessionaire if the Board of Supervisors finds in its decision, that the Concessionaire has done any of the following: (1) violated any term of a contract with the County, (2) committed any act or omission which negatively reflects on the Concessionaire's quality, fitness or capacity to perform a contract with the County or any other public entity, or engaged in a pattern or practice which negatively reflects on same, (3) committed an act or offense which indicates a lack of business integrity or business honesty, or (4) made or submitted a false claim against the County or any other public entity.

D. If there is evidence that the Concessionaire may be subject to debarment, the Department will notify the Concessionaire in writing of the evidence which is the basis for the proposed debarment and will advise the Concessionaire of the scheduled date for a debarment hearing before the Concessionaire Hearing Board.

E. The Concessionaire Hearing Board will conduct a hearing where evidence on the proposed debarment is presented. The Concessionaire and/or the Concessionaire's representative shall be given an opportunity to submit evidence at that hearing. After the hearing, the Concessionaire Hearing Board shall prepare a proposed decision, which shall contain a recommendation regarding whether the Concessionaire should be debarred; and, if so, the appropriate length of time of the debarment. If the Concessionaire fails to avail itself of the opportunity to submit evidence to the Concessionaire Hearing Board, the Concessionaire may be deemed to have waived all rights of appeal.

37. INTERPRETATION

37.01 This agreement shall be interpreted according to the rules which govern the interpretation of contracts, as prescribed in Part 2 of Division 3 of the State Civil Code, commencing with Section 1635.

37.02 The headings herein-contained are for convenience and reference only and are not intended to define or limit the scope of any provisions hereof.

37.03 The following words as used herein shall be construed to have the following meaning, unless otherwise apparent from the context in which they are used:

County: Shall mean the County of Los Angeles

Chief Administrative Officer: The Chief Administrative Officer of the County of Los Angeles or an authorized representative thereof.

Auditor-Controller: The County Auditor-Controller or an authorized representative thereof.

Beverage: Any liquid prepared by flavoring, heating and/or admixing in advance of consumption thereof, other than alcoholic beverages as defined in the State Alcoholic Beverages Control Act.

Food service facility: A cafeteria operated for the exclusive use of County employees and the guests thereof, including those employees who furnish their own meals for consumption therein.

Concessionaire: A vendor authorized, under this Agreement, to design, construct, and enhance the food service facility for the purpose of providing food service to County employees and the public.

Gross Receipts: All money, cash, receipts, assets, property or other things of value, including, but not limited to, gross charges, sales, rental, fees and commissions made or earned by Concessionaire, and/or assignees, subleases, or permittees thereof, whether collected or accrued from business, use or occupation, or any combination thereof, transacted, performed in whole or in part, on the concession premises, including, but not limited to, rental, the rendering or supplying of services and the sale of goods, wares or merchandise. Gross receipts shall not include the following:

a. Sales and excise taxes applicable thereto, required to be collected by Concessionaire or permittees thereof.

b. Federal, state, municipal or other taxes collected from the consumers, regardless or whether the amount thereof as stated to the consumer as a separate charge, provided the amount of such taxes shall be shown on the accounting records for the concession as hereinafter required.

c. Receipts from the sale or trade-in value of any equipment used on the concession premises and owned by Concessionaire.

d. Receipts in the form of refunds from or the value of merchandise, supplies or equipment returned to the shippers, suppliers or manufacturers.

e. Receipts with respect to any sale where the subject of such sale or some part thereof, is thereafter returned by the purchaser and accepted by Concessionaire, to the extent of any refund actually granted or adjustment actually made, either in the form of cash or credit.

Net Profit: Net profit shall be computed by deducting from gross receipts all expenses paid or incurred by Concessionaire which are directly related to the concession operation for said contract year. These expenses consist of salaries and benefits for employees, including an on-site manager, performing services and labor on the premises, food costs, costs of expendable items such as eating and cooking utensils, costs of utilities, waste disposal, maintenance and repair costs, depreciation on equipment owned by Concessionaire (useful life shall be the period of this contract) and the costs of insurance, taxes, licenses and fees prorated on the basis of a contract year. Said direct expenses shall not include administrative expenses, such as management salaries, accounting, auditing, clerical and other services generally classified as overhead. In the event there is any conflict or disagreement as to what constitutes a direct expense, the opinion of the County's Auditor-Controller shall be decisive in the matter.

State: The State of California.

38. NOTICES

38.01 Any notices required to be given under the terms of this concession agreement or any law applicable thereto may be placed in a sealed envelope, with postage paid, addressed to the person on whom it is to be served, and deposited in a post office mail box, sub-post office, substation or mail chute, or other like facility regularly maintained by the United States Postal Service. The address to be used for any notice served by mail upon Concessionaire shall be:

P & A Food Systems, Inc.
501 West Dyer Road
Santa Ana, CA 92707

or such other place as any hereinafter be designated in writing to the Chief Administrative Officer by Concessionaire.

38.02 Any notice served by mail upon County shall be addressed to:

The Chief Administrative Office
Real Estate Division
222 South Hill Street, 3rd Floor
Los Angeles, CA 90012
Attention: Carlos Brea

or such other place as may hereinafter be designated in writing to Concessionaire by the Chief Administrative Officer. Service by mail shall be deemed complete upon deposit in the above-mentioned manner.

39. COUNTY'S NON-RESPONSIBILITY FOR SALES PROCEEDS

The Concessionaire represents it has made its own determinations for the profitability and viability of the concession herein including traffic counts of possible patrons, previous sales history, if any, and has not relied on any representations made by the County or its staff or representatives. The County assumes no liability for any sales losses whatsoever caused by the reduction of its staff or public clientele, damages to the premises, relocation of patron traffic and access, boycotts, strikes, relocation of premises, or any other reason whatsoever.

40. COMPLIANCE WITH LIVING WAGE PROGRAM

A. Living Wage Program.

This contract is subject to the provisions of the County's ordinance entitled Living Wage Program ("Program") as codified in Sections 2.201.010 through 2.201.100 of the Los Angeles County Code, a copy of which is attached hereto and incorporated by reference into and made a part of the contract.

B. Payment of Living Wage Rates.

1. Unless Concessionaire has demonstrated to the County's satisfaction either that Concessionaire is not an "Employer" as defined under the Program (Section 2.201.020 of the County Code) or that Concessionaire qualifies for an exception to the Program (Section 2.201.090 of the County Code), Concessionaire shall pay its Employees no less than the applicable hourly living wage rate, as set forth immediately below, for the Employees' services provided to the County under the contract:

a. Not less than \$9.46 per hour if, in addition to the per-hour wage, Concessionaire contributes less than \$1.14 per hour towards the provision of bona fide health care benefits for its Employees and any dependents; or

b. Not less than \$8.32 per hour if, in addition to the per-hour wage, Concessionaire contributes at least \$1.14 per hour towards the provision of bona fide health care benefits for its Employees and any dependents. Concessionaire will be deemed to have contributed \$1.14 per hour towards the provision of bona fide health care benefits if the benefits are provided through the County Department of Health Services Community Health Plan. If, at any time during the contract, Concessionaire contributes less than \$1.14 per hour towards the provision of bona fide health care benefits, Concessionaire shall be required to pay its Employees the higher hourly living wage rate.

2. For purposes of this Section, "Concessionaire " includes any subcontractor engaged by Concessionaire to perform services for the County under the contract. If Concessionaire uses any subcontractor to perform services for the County under the contract, the sub-concessionaire shall be subject to the provisions of this Section. The provisions of this Section shall be inserted into any such subcontract agreement and a copy of the Program shall be attached to the agreement. "Employee" means any individual who is an employee of Concessionaire under the laws of California, and who is providing full-time services to Concessionaire , some or all of which are provided to the County under the contract. "Full-time" means a minimum of 40 hours worked per week, or a lesser number of hours, if the lesser number is a recognized industry standard and is approved as such by the County; however, fewer than 35 hours worked per week will not, in any event, be considered full time.

3. If Concessionaire is required to pay a living wage when the contract commences, Concessionaire shall continue to pay a living wage for the entire term of the contract, including any option period.

4. If Concessionaire is not required to pay a living wage when the contract commences, Concessionaire shall have a continuing obligation to review the applicability of its "exemption status" from the living wage requirement, and Concessionaire shall immediately notify County if Concessionaire at any time either comes within the Program's definition of "Employer" or if Concessionaire no longer qualifies for an exception to the Program. In either event, Concessionaire shall immediately be required to commence paying the living wage and shall be obligated to pay the living wage for the remaining term of the contract, including any option period. The County may also require, at any time during the contract and at its sole discretion, that Concessionaire demonstrate to the County's satisfaction that Concessionaire either continues to remain outside of the Program's definition of "Employer" and/or that Concessionaire continues to qualify for an exception to the Program. Unless Concessionaire satisfies this requirement within the time frame permitted by the County, Concessionaire shall immediately be required to pay the living wage for the remaining term of the contract, including any option period.

C. Concessionaire's Submittal of Certified Monitoring Reports.

Concessionaire shall submit to the County certified monitoring reports at a frequency instructed by the County. The certified monitoring reports shall list all of Concessionaire's Employees during the reporting period. The certified monitoring reports shall also verify the number of hours worked, the hourly wage rate paid, and the amount paid by Concessionaire for health benefits, if any, for each of its Employees. The certified monitoring reports shall also state the name and identification number of Concessionaire's current health care benefits plan, and Concessionaire's portion of the premiums paid as well as the portion paid by each Employee. All certified monitoring reports shall be submitted on forms provided by the County, or any other form approved by the County which contains the above information. The County reserves the right to request any additional information it may deem necessary. If the County requests additional information, Concessionaire shall promptly provide such information. Concessionaire, through one of its officers, shall certify under penalty of perjury that the information contained in each certified monitoring report is true and accurate.

D. Concessionaire's Ongoing Obligation to Report Labor Law/Payroll Violations and Claims.

During the term of the contract, if the Concessionaire becomes aware of any labor law/payroll violation or any complaint, investigation or proceeding ("claim") concerning any alleged labor law/payroll violation (including but not limited to any violation or claim pertaining to wages, hours and working conditions such as minimum wage, prevailing wage, living wage, the Fair Labor Standards Act, employment of minors, or unlawful employment discrimination), the Concessionaire shall immediately inform the County of any pertinent facts known by the Concessionaire regarding same. This disclosure obligation is not limited to any labor law/payroll violation or claim arising out of the Concessionaire's contract with the County, but instead applies to any labor law/payroll violation or claim arising out of any of the Concessionaire's operations in California.

E. County Auditing of Concessionaire Records.

Upon a minimum of twenty-four (24) hours' written notice, the County may audit, at Concessionaire's place of business, any of Concessionaire's records pertaining to the contract, including all documents and information relating to the certified monitoring reports. Concessionaire is required to maintain all such records in California until the expiration of four years from the date of final payment under the contract. Authorized agents of the County shall have access to all such records during normal business hours for the entire period that records are to be maintained.

F. Notifications to Employees.

Concessionaire shall place County-provided living wage posters at each of Concessionaire's place of business and locations where Concessionaire's employees are working. Concessionaire shall also distribute County-provided notices to each of its employees at least once per year. Concessionaire shall translate into Spanish and any other language spoken by a significant number of employees the posters and hand outs.

G. Enforcement and Remedies.

If Concessionaire fails to comply with the requirements of this Section, the County shall have the rights and remedies described in this Section in addition to any rights and remedies provided by law or equity.

(1) Remedies For Submission of Late or Incomplete Certified Monitoring Reports. If Concessionaire submits a certified monitoring report to the County after the date it is due or if the report submitted does not contain all of the required information or is inaccurate or is not properly certified, any such deficiency shall constitute a breach of the contract. In the event of any such breach, the County may, in its sole discretion, exercise any or all of the following rights/remedies:

a. Withholding of Payment. If Concessionaire fails to submit accurate, complete, timely and properly certified monitoring reports, the County may withhold from payment to Concessionaire up to the full amount of any invoice that would otherwise be due, until Concessionaire has satisfied the concerns of the County, which may include required submittal of revised certified monitoring reports or additional supporting documentation.

b. Liquidated Damages. It is mutually understood and agreed that Concessionaire's failure to submit an accurate, complete, timely and properly certified monitoring report will result in damages being sustained by the County. It is also understood and agreed that the nature and amount of the damages will be extremely difficult and impractical to fix; that the liquidated damages set forth herein are the nearest and most exact measure of damages for such breach that can be fixed at this time; and that the liquidated damages are not intended as a penalty or forfeiture for Concessionaire's breach. Therefore, in the event that a certified monitoring report is deficient, including but not limited to being late, inaccurate, incomplete or uncertified, it is agreed that the County may, in its sole discretion, assess against Concessionaire liquidated damages in the amount of \$100 per monitoring report for each day until the County has been provided with a properly prepared, complete and certified monitoring report. The County may deduct any assessed liquidated damages from any payments otherwise due Concessionaire.

c. Termination. Concessionaire's failure to submit an accurate, complete, timely and properly certified monitoring report may constitute a material breach of the contract. In the event of such material breach, County may, in its sole discretion, terminate the contract.

(2) Remedies for Payment of Less Than the Required Living Wage. If Concessionaire fails to pay any employee at least the applicable hourly living wage rate, such deficiency shall constitute a breach of the contract. In the event of any such breach, the County may, in its sole discretion, exercise any or all of the following rights/remedies:

a. Withholding Payment. If Concessionaire fails to pay one or more of its employees at least the applicable hourly living wage rate, the County may withhold from any payment otherwise due Concessionaire the aggregate difference between the living wage amounts Concessionaire was required to pay its employees for a given pay period and the amount actually paid to the employees for that pay period. The County may withhold said amount until Concessionaire has satisfied the County that any underpayment has been cured, which may include required submittal of revised certified monitoring reports or additional supporting documentation.

b. Liquidated Damages. It is mutually understood and agreed that Concessionaire's failure to pay any of its employees at least the applicable hourly living wage rate will result in damages being sustained by the County. It is also understood and agreed that the nature and amount of the damages will be extremely difficult and impractical to fix; that the liquidated damages set forth herein are the nearest and most exact measure of damages for such breach that can be fixed at this time; and that the liquidated damages are not intended as a penalty or forfeiture for Concessionaire's breach. Therefore, it is agreed that the County may, in its sole discretion, assess against Concessionaire liquidated damages of \$50 per employee per day for each and every instance of an underpayment to an employee. The County may deduct any assessed liquidated damages from any payments otherwise due Concessionaire.

c. Termination. Concessionaire's failure to pay any of its employees the applicable hourly living wage rate may constitute a material breach of the contract. In the event of such material breach, County may, in its sole discretion, terminate the contract.

(3) Debarment. In the event Concessionaire breaches a requirement of this Section, the County may, in its sole discretion, bar Concessionaire from the award of future County contracts for a period of time consistent with the seriousness of the breach, not to exceed three years.

H. Use of Full-Time Employees.

Concessionaire shall assign and use full-time employees of Concessionaire to provide services under the contract unless Concessionaire can demonstrate to the satisfaction of the County that it is necessary to use non-full-time employees based on staffing efficiency or County requirements for the work to be performed under the contract. It is understood and agreed that Concessionaire shall not, under any circumstance, use non-full-time employees for services provided under the contract unless and until the County has provided written authorization for the use of same. Concessionaire submitted with its proposal a full time employee staffing plan. If Concessionaire changes its full time employee staffing plan, Concessionaire shall immediately provide a copy of the new staffing plan to the County.

I. Concessionaire Retaliation Prohibited.

Concessionaire and/or its employees shall not take any adverse action which would result in the loss of any benefit of employment, any contract benefit, or any statutory benefit for any employee, person or entity who has reported a violation of the Program to the County or to any other public or private agency, entity or person. A violation of the provisions of this paragraph may constitute a material breach of the contract. In the event of such material breach, County may, in its sole discretion, terminate the contract.

J. Concessionaire Standards.

During the term of the contract, Concessionaire shall maintain business stability, integrity in employee relations and the financial ability to pay a living wage to its employees. If requested to do so by the County, Concessionaire shall demonstrate to the satisfaction of the County that Concessionaire is complying with this requirement.

K. Employee Retention Rights.

Note: This paragraph applies only if the contract involves the provision of services that were previously provided by a Concessionaire under a predecessor Proposition A contract or a predecessor cafeteria services contract, which predecessor contract was terminated by the County prior to its expiration.

(1) Concessionaire shall offer employment to all retention employees who are qualified for such jobs. A “retention employee” is an individual:

a. Who is not an exempt employee under the minimum wage and maximum hour exemptions defined in the federal Fair Labor Standards Act; and

b. Who has been employed by a Concessionaire under a predecessor Proposition A contract or a predecessor cafeteria services contract with the County for at least six months prior to the date of this new contract, which predecessor contract was terminated by the County prior to its expiration; and

c. Who is or will be terminated from his or her employment as a result of the County entering into this new contract.

(2) Concessionaire is not required to hire a retention employee who:

a. Has been convicted of a crime related to the job or his or her performance; or

b. Fails to meet any other County requirement for employees of a Concessionaire.

(3) Concessionaire shall not terminate a retention employee for the first 90 days of employment under the contract, except for cause. Thereafter, Concessionaire may retain a retention employee on the same terms and conditions as Concessionaire’s other employees.

L. Neutrality in Labor Relations.

Concessionaire shall not use any consideration received under the contract to hinder, or to further, organization of, or collective bargaining activities by or on behalf of Concessionaire's employees, except that this restriction shall not apply to any expenditure made in the course of good faith collective bargaining, or to any expenditure pursuant to obligations incurred under a bona fide collective bargaining agreement, or which would otherwise be permitted under the provisions of the National Labor Relations Act.

41. COMPLIANCE WITH JURY SERVICE PROGRAM

A. Jury Service Program

This Contract is subject to the provisions of the County's ordinance entitled Contractor Employee Jury Service ("Jury Service Program") as codified in Sections 2.203.010 through 2.203.090 of the Los Angeles County Code.

B. Written Employee Jury Service Policy

1. Unless Concessionaire has demonstrated to the County's satisfaction either that Concessionaire is not a "Contractor" as defined under the Jury Service Program (Section 2.203.020 of the County Code) or that Concessionaire qualifies for an exception to the Jury Service Program (Section 2.203.070 of the County Code), Concessionaire shall have and adhere to a written policy that provides that its Employees shall receive from the Concessionaire, on an annual basis, no less than five days of regular pay for actual jury service. The policy may provide that Employees deposit any fees received for such jury service with the Concessionaire or that the Concessionaire deduct from the Employee's regular pay the fees received for jury service.

2. For purposes of this Section, "Concessionaire" means a person, partnership, corporation or other entity which has a contract with the County or a subcontract with a County contractor and has received or will receive an aggregate sum of \$50,000 or more in any 12-month period under one or more County contracts or subcontracts. "Employee" means any California resident who is a full time employee of Concessionaire. "Full time" means 40 hours or more worked per week, or a lesser number of hours if: 1) the lesser number is a recognized industry standard as determined by the County, or 2) Concessionaire has a long-standing practice that defines the lesser number of hours as full-time. Full-time employees providing short-term, temporary services of 90 days or less within a 12-month period are not considered full-time for purposes of the Jury Service Program. If Concessionaire uses any subcontractor to perform services for the County under the Contract, the subcontractor shall also be subject to the provisions of this Section. The provisions of this Section shall be inserted into any such subcontract agreement and a copy of the Jury Service Program shall be attached to the agreement.

3. If Concessionaire is not required to comply with the Jury Service Program when the Contract commences, Concessionaire shall have a continuing obligation to review the applicability of its "exception status" from the Jury Service Program, and Concessionaire shall immediately notify County if Concessionaire at any time either comes within the Jury Service Program's definition of "Concessionaire" or if Concessionaire no longer qualifies for an exception to the Program. In either event, Concessionaire shall immediately implement a written policy consistent with the Jury Service Program. The County may also require, at any time during the Contract and at its sole discretion, that Concessionaire demonstrate to the County's satisfaction that Concessionaire either continues to remain outside of the Jury Service Program's definition of "Concessionaire" and/or that Concessionaire continues to qualify for an exception to the Program.

4. Concessionaire's violation of this Section of the contract may constitute a material breach of the Contract. In the event of such material breach, County may, in its sole discretion, terminate the Contract and/or bar Concessionaire from the award of future County contracts for a period of time consistent with the seriousness of the breach. Concessionaire shall properly prepare and execute Exhibit "D" which is attached hereto.

42. ENTIRE AGREEMENT

42.01 This document and the exhibits attached hereto, constitute the entire agreement between the County and Concessionaire for the food service concession stated herein. All other agreement, promises and representations with respect thereto, other than contained herein, are expressly revoked, as it has been the intention of the parties to provide for a complete integration within the provisions of this document, the terms, conditions, promises and covenants relating to the concession and the premises to be used in the conduct thereof. The unenforceability, invalidity, or illegality of any provision of this agreement shall not render the other provisions thereof unenforceable, invalid or illegal.

42.02 This document may be modified only upon written agreement between the parties hereto. Any such modification shall not be effective unless and until executed by Concessionaire and in the case of County until approved by the Chief Administrative Office.

IN WITNESS WHEREOF, the Concessionaire has executed this Concession Agreement or caused it to be duly executed, and the County of Los Angeles by order of its Board of Supervisors, has caused this Concession Agreement to be executed on its behalf by the Chairman of said Board and attested by the Clerk thereof the day, month, and year first above written.

CONCESSIONAIRE:

P & A FOOD SYSTEMS, INC.

By _____
Steve Pecoraro, President

COUNTY OF LOS ANGELES

By _____
Chairman, Board of Supervisors

ATTEST:

VIOLET VARONA-LUKENS
Executive Officer-Clerk of
the Board of Supervisors

By _____

APPROVED AS TO FORM:

LLOYD W. PELLMAN
County Counsel

By _____
Deputy: Francis E. Scott

**COUNTY OF LOS ANGELES CONTRACTOR EMPLOYEE JURY SERVICE PROGRAM
APPLICATION FOR EXCEPTION AND CERTIFICATION FORM**

The County's solicitation for this contract/purchase order (Request for Proposal or Invitation for Bid) is subject to the County of Los Angeles Contractor Employee Jury Service Program (Program) (Los Angeles County Code, Chapter 2.203). All bidders or proposers, whether a contractor or subcontractor, must complete this form to either 1) request an exception from the Program requirements or 2) certify compliance. Upon review of the submitted form, the County department will determine, in its sole discretion, whether the bidder or proposer is excepted from the Program.

Company Name:		
Company Address:		
City:	State:	Zip Code:
Telephone Number:		
Solicitation For (Type of Goods or Services):		

If you believe the Jury Service Program does not apply to your business, check the appropriate box in Part I (attach documentation to support your claim); or, complete Part II to certify compliance with the Program. Whether you complete Part I or Part II, please sign and date this form below.

Part I: Jury Service Program Is Not Applicable to My Business

- ☐ My business does not meet the definition of "contractor," as defined in the Program as it has not received an aggregate sum of \$50,000 or more in any 12-month period under one or more County contracts or subcontracts (this exception is not available if the contract/purchase order itself will exceed \$50,000). I understand that the exception will be lost and I must comply with the Program if my revenues from the County exceed an aggregate sum of \$50,000 in any 12-month period.
- ☐ My business is a small business as defined in the Program. It 1) has ten or fewer employees; and, 2) has annual gross revenues in the preceding twelve months which, if added to the annual amount of this contract, are \$500,000 or less; and, 3) is not an affiliate or subsidiary of a business dominant in its field of operation, as defined below. I understand that the exemption will be lost and I must comply with the Program if the number of employees in my business and my gross annual revenues exceed the above limits.

"Dominant in its field of operation" means having more than ten employees, including full-time and part-time employees, and annual gross revenues in the preceding twelve months, which, if added to the annual amount of the contract awarded, exceed \$500,000.

"Affiliate or subsidiary of a business dominant in its field of operation" means a business which is at least 20 percent owned by a business dominant in its field of operation, or by partners, officers, directors, majority stockholders, or their equivalent, of a business dominant in that field of operation.

- ☐ My business is subject to a Collective Bargaining Agreement (attach agreement) that expressly provides that it supersedes all provisions of the Program.

OR

Part II - Certification of Compliance

- ☐ My business has and adheres to a written policy that provides, on an annual basis, no less than five days of regular pay for actual jury service for full-time employees of the business who are also California residents, or my company will have and adhere to such a policy prior to award of the contract.

I declare under penalty of perjury under the laws of the State of California that the information stated above is true and correct.

Print Name:	Title:
Signature:	Date: